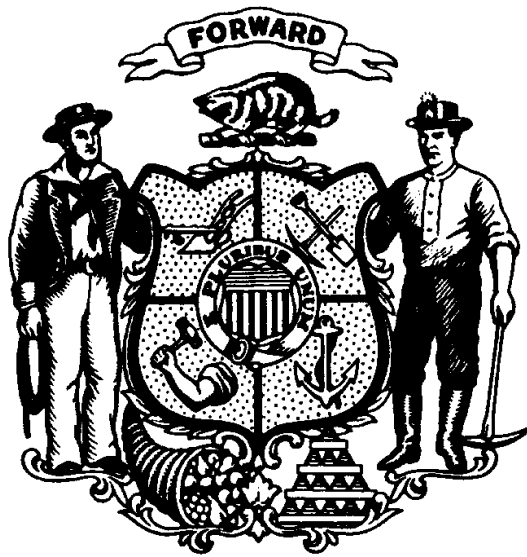


# *WISCONSIN ADMINISTRATIVE REGISTER*

**No. 526**



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## EMERGENCY RULES NOW IN EFFECT

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*Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.*

*Emergency rules are published in the official state newspaper, which is currently the Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.*

*Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.*

*Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.*

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### EMERGENCY RULES NOW IN EFFECT (2)

#### Agriculture, Trade & Consumer Protection

1. Rules were adopted amending s. ATCP 60.19 (3) and (4), relating to drug residues in raw milk.

#### Finding of Emergency

The state of Wisconsin department of agriculture, trade and consumer protection (DATCP) finds that an emergency exists and that the following emergency rule is necessary to protect public health, safety and welfare. The facts constituting the emergency are as follows:

(1) Milk from Wisconsin dairy farms may not contain drug residues. Current rules under ch. ATCP 60, Wis. Adm. Code, require every dairy plant operator to perform a drug residue screening test on every bulk load of raw milk received by that operator. If the bulk load tests positive for any drug residue, the operator must test a milk sample from each producer milk shipment included in that bulk load. Current rules do not require a dairy plant operator to perform a confirmatory test if a producer sample tests positive on an initial test.

(2) If a producer sample tests positive for drug residue, the dairy plant operator may hold that producer financially responsible for contaminating the bulk load. In some cases, the cost of a contaminated tanker load of milk may be \$5,000 or more. The department may also take enforcement action against the milk producer. Enforcement may result in financial penalties or suspension of the milk producer's license.

(3) In several enforcement actions, producers have argued that dairy plant drug residue tests were inaccurate. Producers claimed that there was no confirmatory testing, and no opportunity to confirm the accuracy of the dairy plant operator's test findings. Inaccurate findings may unfairly penalize affected producers, and result in severe financial losses to those producers. The lack of a confirmatory test aggravates conflicts between dairy plant operators and milk producers.

(4) Confirmatory testing of test-positive producer samples would provide greater assurance of fairness for milk producers, and would help avoid conflicts between dairy plant operators and producers. Dairy plant operators can perform confirmatory tests at reasonable cost. An emergency rule requiring confirmatory testing of producer samples is necessary to protect milk producers, and to promote the efficient operation and economic well-being of Wisconsin's dairy industry.

(5) Confirmatory testing of test-positive producer samples will enhance, and not reduce, the safety of Wisconsin milk supplies. Dairy plant operators will still be required to test bulk tanker loads of milk, and dispose of tanker loads that test positive for drug residues.

(6) This emergency rule will strengthen public health protection by requiring dairy plant operators to dispose of contaminated loads, or denature contaminated loads before transferring them to the custody of another person. Denaturing ensures that persons receiving custody of contaminated loads will not redirect them to human food use.

(7) Pending the adoption of rules according to normal administrative rulemaking procedures, it is necessary to adopt this emergency rule to do both of the following:

(a) Protect the public milk supply against drug residue contamination by assuring proper disposal of contaminated milk.

(b) Provide additional assurance that milk producers will not be subjected to serious penalties or financial losses based on inaccurate drug residue tests.

**Publication Date:** April 30, 1999  
**Effective Date:** April 30, 1999  
**Expiration Date:** September 27, 1999  
**Hearing Date:** June 18, 1999  
**Extension Through:** November 25, 1999

2. Rules adopted revising s. ATCP 100.45, relating to security of dairy plant payments to milk producers.

#### Finding of Emergency

(1) Section 100.06, Stats., is designed to provide "reasonable assurance" that dairy farmers will be paid for the milk they produce. Under ss. 97.20(2)(d)2. and 100.06, Stats., a dairy plant must, as a condition to licensing, comply with applicable security requirements under s. 100.06, Stats., and department rules under ch. ATCP 100, Wis. Adm. Code. Since dairy plant licenses expire on April 30 annually, dairy plants must comply with applicable security requirements in order to qualify for license renewal on May 1 of each year.

(2) Under s. 100.06, Stats., and ch. ATCP 100, a dairy plant operator who purchases milk from producers must do one of the following:

(a) File with the department of agriculture, trade and consumer protection ("department") audited financial statements which show that the operator meets minimum financial standards established by s. 100.06, Stats.

(b) File security with the department in an amount equal to at least 75% of the operator's "maximum liability to producers," as calculated under s. ATCP 100.45(5).

(c) Enter into a dairy plant trusteeship under ch. ATCP 100, Subch. V.

(3) Under s. ATCP 100.45(5), a dairy plant operator's "maximum liability to producers" is based on the plant operator's largest monthly purchase of milk during the *preceding* license year. Milk prices hit all time record highs in 1998, dramatically increasing

monthly dairy plant payrolls. Security requirements for the 1999 license year are currently based on these inflated 1998 monthly payrolls, even though 1999 monthly payrolls have dropped dramatically in response to price changes.

(4) Since December 1998, the average market price for raw milk has fallen by approximately 40%. Dairy economists expect BFP average prices to remain at least 12% to 16.2% below last year's average during 1999. Because of the dramatic decline in milk prices, dairy plants have smaller producer payroll obligations than they had in 1998.

(5) Prices received by Wisconsin dairy plants for processed dairy products have also fallen dramatically since December. This has created serious financial hardships for some dairy plants.

(6) Current security requirements, based on 1998 producer prices and payrolls, are excessive in relation to current payroll obligations and impose an added financial burden on dairy plants. Current security requirements under s. ATCP 100.45(5), based on last year's prices, are at least 31 to 48% higher than they would be if calculated at current prices.

(7) Because of the dramatic decline in dairy prices, some dairy plant operators are required to file large amounts of additional security, often amounting to millions of dollars. This is a major expense for affected operators. Operators may find it difficult, financially, to obtain and file the required security. If a dairy plant is unable to file the required security in connection with the May 1, 1999 license renewal, the department will be forced to take action against the dairy plant's license. This could result in the forced closing of some unsecured dairy plants. The forced closing of an unsecured plant may, in turn, result in serious financial losses to producer patrons.

(8) By requiring excessive security based on last year's prices, current rules are making it unnecessarily difficult and expensive for dairy plants to obtain and file security. This could contribute to the financial failure of some dairy plants, or to the forced closing of some unsecured plants. Dairy plant financial failures or closings, if they occur, may cause serious and widespread financial injury to milk producers in this state. This constitutes a serious and imminent threat to the public welfare.

(9) In order to reduce the risk of dairy plant financial failures or forced closings, rule amendments are urgently needed to adjust dairy plant security requirements to appropriate levels based on current milk prices. The rule amendments will relieve financially stressed dairy plants from unnecessary financial burdens and will make it easier for those dairy plants to file security with the department. That, in turn, will reduce the risk of dairy plant financial failures, or the forced closing of unsecured plants, which may adversely affect milk producers.

(10) Rule amendments, to be effective, must be promulgated prior to the dairy plant license year beginning May 1, 1999. That is not possible under normal rulemaking procedures. Therefore, the following emergency rule is needed to protect the public welfare.

(11) Should milk prices rise beyond the levels currently anticipated for the license year beginning May 1, 1999, so that security filed under this emergency rule is less than 75% of a dairy plant operator's current monthly producer payroll, the operator is required to notify the department of that fact under s. 100.06, Stats., and s. ATCP 100.20(3). The department may demand additional security at that time.

**Publication Date:** April 20, 1999  
**Effective Date:** May 1, 1999  
**Expiration Date:** September 28, 1999  
**Hearing Date:** May 18, 1999  
**Extension Through:** November 26, 1999

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## EMERGENCY RULES NOW IN EFFECT

### Commerce

#### (Financial Resources for Communities, Chs. Comm 105 to 128)

Rules adopted creating **ch. Comm 111**, relating to certified capital companies.

### Finding of Emergency

The Department of Commerce finds that an emergency exists and that the adoption of the rule is necessary for the immediate preservation of public health, safety and welfare.

### Analysis of Rules

Statutory Authority: ss. 560.31, 560.34 (1m) (b), and 227.24

Statutes Interpreted: ss. 560.31, 560.34 (1m) (b), and 227.24

On June 17, 1999, the Department of Commerce (Commerce) held a public hearing on proposed rules in response to 1997 Wis. Act 215. That act provides tax credits to persons that make certain investments in certified capital companies that are certified by Commerce. Legislators and persons interested in the rules testified at the hearing and requested that Commerce adopt an emergency rule that would (1) allow persons to apply for certification to become certified as capital companies, (2) allow persons to apply to make a certified capital investment in a certified capital company, and (3) set forth the operational and reporting requirements of certified capital companies required under the law. Since then, articles in the newspaper as well as business journals have pointed out the lack of venture capital in the state hinders high-tech growth and making that capital available will benefit Wisconsin as it has done in other states. This emergency rule is necessary to begin implementation of the law and to place Wisconsin in a better position to make capital available to draw high-tech industries, create new businesses, and expand existing businesses that will ultimately create new jobs and benefit all its citizens.

**Publication Date:** July 23, 1999  
**Effective Date:** July 23, 1999  
**Expiration Date:** December 19, 1999  
**Hearing Date:** August 17, 1999

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## EMERGENCY RULES NOW IN EFFECT

### Crime Victims Rights Board

Rules adopted creating **ch. CVRB 1**, relating to the rights of crime victims.

### Finding of Emergency

The Crime Victims Rights Board finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

The Crime Victims Rights Board was created by 1997 Wis. Act 181, effective December 1, 1998, to enforce victims' rights established by Wis. Const. Art. I, s. 9m, adopted in 1993. The Wisconsin Constitution states that the Legislature shall provide remedies for the violation of victims' constitutional rights. The Board's process represents the only means of enforcing the remedies available to victims of crime who are not provided with the rights guaranteed to them by the Wisconsin Constitution and the Wisconsin statutes. The Board can issue reprimands to correct violations of victims' rights, seek forfeitures in egregious cases, and seek equitable relief to enforce victims' rights. The Board can also



work to prevent future violations of victims' rights by issuing reports and recommendations on crime victims' rights and services.

Complaints must be presented to the Department of Justice before they can be presented to the Board. The Department estimates that it receives 200 complaints annually involving the treatment of crime victims. The Department has no authority to enforce victims' rights; the Department can only seek to mediate disputes. Of those complaints, approximately 25 per year cannot be resolved to the parties' satisfaction, and are therefore ripe for the Board's consideration. There are presently 5 complaints that could be referred to the Board if the Board were able to receive and act on complaints.

Until the Board establishes its complaint process by administrative rule, it is unable to provide the remedies constitutionally guaranteed to crime victims.

**Publication Date:** September 17, 1999  
**Effective Date:** September 17, 1999  
**Expiration Date:** February 14, 1999  
**Hearing Date:** November 9, 1999

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## **EMERGENCY RULES NOW IN EFFECT**

### ***Employment Relations Commission***

Rules adopted revising **ch. ERC 33, Appendix C**, relating to the calculation of a minimum qualified economic offer in collective bargaining with professional school district employees.

### **Finding of Emergency**

We find that it is necessary to promulgate the amendment to ch. ERC 33, Appendix C as an emergency rule to preserve the public peace, health, safety and welfare. Without the amendment, the timely and peaceful resolution of collective bargaining disputes in Wisconsin will be endangered.

**Publication Date:** June 12, 1999  
**Effective Date:** June 12, 1999  
**Expiration Date:** November 9, 1999

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## **EMERGENCY RULES NOW IN EFFECT**

### ***Professional Geologists, Hydrologists and Soil Scientists***

Rules adopted creating **chs. GHSS 1 to 5**, relating to the registration and regulation of professional geologists, hydrologists and soil scientists.

### **Exemption From Finding of Emergency**

The Examining Board of Geologists, Hydrologists and Soil Scientists finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, safety or welfare. A statement of the facts constituting the emergency is:

Section 64 of 1997 Wis. Act 300 states that the board is not required to make a finding of emergency. However, the board offers the following information relating to the promulgation of these rules as emergency rules. The new regulation of professional geologists, hydrologists and soil scientists was created in 1997 Wis. Act 300. The Act was published on June 30, 1998; however the Act created

an effective date for the new regulation as being the first day of the 6th month beginning after the effective date of this subsection.

**Publication Date:** May 15, 1999  
**Effective Date:** May 15, 1999  
**Expiration Date:** October 12, 1999  
**Hearing Date:** June 23, 1999  
**Extension Through:** December 10, 1999

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## **EMERGENCY RULES NOW IN EFFECT**

### ***Health & Family Services***

**(Management, Technology, etc., Chs. HFS 1–)**

A rule was adopted revising **chapter HFS 12, Appendix A**, relating to caregiver background checks.

### **Finding of Emergency**

The Department of Health and Family Services finds that an emergency exists and that the rules are necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

Since October 1, 1998, the Department has been implementing statutes that became effective on that date that require use of uniform procedures to check the backgrounds of persons who apply to the Department, to a county social services or human services department that licenses foster homes for children and carries out adoption home studies, to a private child-placing agency that does the same or to a school board that contracts for day care programs, to provide care or treatment to persons who need that care or treatment, or who apply to a regulated entity to be hired or contracted with to provide services to the entity's clients or who propose to reside as a non-client at the entity. The statutes, ss. 48.685 and 50.065, Stats., direct the regulatory agencies and regulated entities to bar persons, temporarily or permanently, depending on the conviction, finding or charge, who have in their backgrounds a specified conviction, finding or charge substantially related to the care of clients, from operating a service provider organization, providing care or treatment to persons who need that care or treatment or otherwise having contact with the clients of a service provider.

The new statutes, commonly referred to as the Caregiver Law, were effective on October 1, 1998, for applicants on or after that date for licensure, certification or other agency approval, and for persons applying to be hired by or to enter into a contract with a regulated entity on or after that date to provide services to clients or to take up residence as a non-client at a regulated entity.

For regulated agencies approved before October 1, 1998, and for persons employed by, under contract to or residing as non-clients at regulated entities before October 1, 1998, the Caregiver Law's required uniform procedures and "bars" are to apply beginning on October 1, 1999. That is to say, by October 1, 1999, background checks, using the uniform procedures, are to be completed for all service providers who were approved before October 1, 1998, and for all employees, contractors and non-client residents employed by, under contract to or living at a regulated entity before October 1, 1998, and action taken to withdraw approval, terminate employment or end a contract, as appropriate.

To implement the new Caregiver Law, the Department on October 1, 1998, published administrative rules, ch. HFS 12, Wis. Adm. Code, by emergency order. Chapter HFS 12 included an appendix which consisted of a list of crimes. The original list specified 159 crimes for conviction of any one of which a person would be barred permanently (45 crimes), all programs, or would be barred temporarily, all programs, pending demonstration of rehabilitation, from being approved to be a service provider or from providing care or treatment to clients or otherwise having access to clients. The October 1998 emergency rules were modified in

December 1998 and February 1999 by emergency order, and were replaced by permanent rules effective July 1, 1999. The Crimes List in the current permanent rules specifies 117 crimes with 9 being permanent bar crimes for all programs.

This order again modifies ch. HFS 12, but only the Crimes List and not the text of the chapter. The number of specified crimes is reduced to 79, with 6 of them, all taken from ss. 48.685 and 50.065, Stats., being permanent bar crimes for all programs. The change to the ch. HFS 12 Crimes List is being made at this time because the 1999–2001 Budget Bill, now before the Legislature but not likely to take effect before October 1, 1999, is expected to provide for a more modest Crimes List than the one now appended to ch. HFS 12. This means that the Legislature intends that some persons who under the current rules would lose their jobs effective October 1, 1999, will be able to keep their jobs. The Department has the authority to further modify the Crimes List so that it corresponds to how the Legislature, after having heard arguments since October 1998 about how the Caregiver Law should be amended and implemented, wants it to work. This is what the Department is doing through this order.

**Publication Date:** September 16, 1999  
**Effective Date:** September 16, 1999  
**Expiration Date:** February 13, 2000  
**Hearing Date:** October 28, 1999

## EMERGENCY RULES NOW IN EFFECT (2)

### Health & Family Services

#### (Medical Assistance, Chs. HFS 101–108)

1. Rules were adopted revising **chs. HFS 101 to 103, and 108**, relating to operation of BadgerCare health insurance program.

#### Finding of Emergency

The Department of Health and Family Services finds that an emergency exists and that the rules are necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

This order creates rules that specify how a new program called BadgerCare, established under s. 49.665, Stats., will work. Under BadgerCare, families with incomes up to 185% of the federal poverty level, but not low enough to be eligible for regular Medical Assistance (MA) coverage of their health care costs, and that lack access to group health insurance, are eligible to have BadgerCare pay for their health care costs. The order incorporates the rules for operation of BadgerCare into chs. HFS 101 to 103 and 108, four of the Department's chapters of rules for operation of the MA program.

BadgerCare is projected to cover over 40,000 currently uninsured Wisconsin residents, including more than 23,000 children, by the end of 1999.

Benefits under BadgerCare will be identical to the comprehensive package of benefits provided by Medical Assistance. The existing Wisconsin Medicaid HMO managed care system, including mechanisms for assuring the quality of services, improving health outcomes and settling grievances, will be used also for BadgerCare.

Department rules for the operation of BadgerCare must be in effect before BadgerCare may begin. The program statute, s. 49.665, Stats., was effective on October 14, 1997. It directed the Department to request a federal waiver of certain requirements of the federal Medicaid Program to permit the Department to implement BadgerCare not later than July 1, 1998, or the effective date of the waiver, whichever date was later. The federal waiver letter approving BadgerCare was received on January 22, 1999. It specified that BadgerCare was not to be implemented prior to July

1, 1999. Once the letter was received, the Department began developing the rules. They are now ready. The Department is publishing the rules by emergency order so that they will go into effect on July 1, 1999, rather than at least 9 months later, which is about how long the process of making permanent rules takes, and thereby provide already authorized health care coverage as quickly as possible to families currently not covered by health insurance and unable to pay for needed health care.

The rules created and amended by this order modify the current Medical Assistance rules to accommodate BadgerCare and in the process provide more specificity than s. 49.665, Stats., about the nonfinancial and financial conditions of eligibility for BadgerCare; state who is included in a BadgerCare group and whose income is taken into consideration when determining the eligibility of a BadgerCare group; expand on statutory conditions for continuing to be eligible for BadgerCare; exempt a BadgerCare group with monthly income at or below 150% of the federal poverty level from being obliged to contribute toward the cost of the health care coverage; and set forth how the Department, as an alternative to providing Medical Assistance coverage, will go about purchasing family coverage offered by the employer of a member of a family eligible for BadgerCare if the Department determines that purchasing that coverage would not cost more than providing Medical Assistance coverage.

**Publication Date:** July 1, 1999  
**Effective Date:** July 1, 1999  
**Expiration Date:** November 28, 1999  
**Hearing Dates:** August 26, 27, 30 & 31, 1999

2. Rule adopted amending **s. HFS 105.39 (4) (b) 3.**, relating to certification of specialized medical vehicle providers.

#### Finding of Emergency

The Department of Health and Family Services finds that an emergency exists and that the adoption of the rules included in this order is necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

The Department's rules for certification of specialized motor vehicle (SMV) providers under the Medical Assistance (MA) program include requirements for SMV drivers. Among current requirements is that each driver must receive training in first aid and cardiopulmonary resuscitation (CPR) before driving a vehicle or serving as an attendant and must receive refresher training in first aid every 2 years and refresher training in CPR annually. The specific requirements for refresher training date from December 1, 1994. When revising its rules for SMV providers earlier in 1994 the Department proposed to require refresher training every 2 years for both first aid and CPR, but at the public hearings on the proposed rules 5 SMV providers said the CPR refresher training should take place annually and the Department agreed and made that its requirement.

Although the American Red Cross CPR training and certification that the person is trained continue to be annual, the equivalent American Heart Association CPR training and certification (the American Heart Association prefers "recognition" to "certification") is now every 2 years. This means that to comply with the Department's current MA rule for SMV drivers, s. HFS 105.39 (4) (b) 3., drivers who receive their training from the American Heart Association must repeat the training each year. That is unnecessary for maintenance of American Heart Association certification (recognition) and the time and expense involved is a burden on SMV providers and drivers. The Department is modifying the rule through this order to simply require that drivers maintain CPR certification.

The Department through this order is also changing the requirement for refresher training in first aid from every 2 years to at least every 3 years. That is because the American Red Cross certification in first aid is now for 3 years. A requirement for more

frequent refresher training in first aid is a burden in time and expense involved for SMV providers and drivers.

**Publication Date:** July 3, 1999  
**Effective Date:** July 3, 1999  
**Expiration Date:** November 30, 1999  
**Hearing Date:** September 1, 1999

## EMERGENCY RULES NOW IN EFFECT (2)

### Health and Family Services

(Health, Chs. HSS/HFS 110—)

1. Rules were adopted revising **ch. HFS 119**, relating to the Health Insurance Risk-Sharing Plan.

### Exemption From Finding of Emergency

Section 149.143 (4), Stats., permits the Department to promulgate rules required under s. 149.143(2) and (3), Stats. by using emergency rulemaking procedures, except that the Department is specifically exempted from the requirement under s. 227.24(1) and (3), Stats., that it make a finding of emergency. These are the rules. Department staff consulted with the HIRSP Board of Governors on April 30, 1999 on the proposed rules, as required by s. 149.20, Stats.

### Analysis Prepared by the Department of Health and Family Services

The State of Wisconsin in 1981 established a Health Insurance Risk-Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state. One type of coverage provided by HIRSP is supplemental coverage for persons eligible for Medicare. This coverage is called Plan 2. Medicare (Plan 2) has a \$500 deductible. Approximately 17% of the 7,291 HIRSP policies in effect on March 31, 1999 were of the Plan 2 type.

The Department through this rulemaking order is amending ch. HFS 119 in order to update HIRSP Plan 2 premium rates in accordance with the authority and requirements set out in s. 149.143 (2) (a) 2., Stats. The Department is required to set premium rates by rule. These rates must be calculated in accordance with generally accepted actuarial principles. Policyholders are to pay 60% of the costs of HIRSP.

There are separate sets of tables in ch. HFS 119 that show unsubsidized and subsidized Plan 2 premium rates. Both sets of tables are amended by this order to increase the premium rates because Plan 2 costs, which historically have been running about 50% less than Plan 1 costs, began to increase several years ago and now are running at about 67% of Plan 1 costs. The Plan 2 premium rates need to be increased to cover increased costs of treatment for individuals enrolled under Plan 2. The order increases these premium rates by about 18%.

In January 1999, the Department published an emergency rule order to increase HIRSP unsubsidized Plan 2 premium rates by about 10%, with the intention of increasing those rates again in July 1999 to the level provided for in this order. However, in May 1999 the Legislature's Joint Committee for the Review of Administrative Rules (JCRAR) refused to extend the effective period of that part of the January 1999 emergency rule order relating to premium rate increases, with the result that effective May 31, 1999, the rates reverted back to the rates in effect before January 1, 1999. Consequently, to increase rates effective July 1, 1999, the Department through this rulemaking order has based the increased rates on the rates in effect prior to January 1, 1999.

The Department through this order is also adjusting the total HIRSP insurer assessments and provider payment rates in accordance with the authority and requirements set out in s. 149.143 (2)(a)3. and 4., Stats. With the approval of the HIRSP Board of Governors and as required by statute, the Department reconciled total costs for the HIRSP program for calendar year 1998. The Board of Governors approved a reconciliation methodology that reconciles the most recent calendar year actual HIRSP program costs, policyholder premiums, insurance assessments and health care provider contributions collected with the statutorily required funding formula. By statute, the adjustments for the calendar year are to be applied to the next plan year budget beginning July 1, 1999.

The result of this reconciliation process for calendar year 1998 indicated that insurance assessments collected were greater than the 20% of costs (net of the GPR contribution from appropriation s. 20.435(5)(af), Stats.), required of insurers. Also, the calendar year 1998 reconciliation process showed that an insufficient amount was collected from health care providers. As a result of this reconciliation, the insurer assessments for the time periods July 1, 1999 through December 31, 1999 and January 1, 2000 through June 30, 2000, are reduced to offset the overpayment in 1998. The total adjustments to the provider payment rates for the same time periods are sharply increased in order to recoup the provider contribution that was not collected in calendar year 1998. The budget for the plan year ending June 30, 2000 and the calendar year 1998 reconciliation process were approved by the HIRSP Board of Governors in April 1999.

**Publication Date:** June 30, 1999  
**Effective Date:** July 1, 1999  
**Expiration Date:** November 28, 1999  
**Hearing Date:** September 9, 1999

2. Rules adopted creating **s. HSS 122.10**, relating to distribution of 3 closed nursing home beds to a nursing home that serves only veterans.

### Finding of Emergency

The Department of Health and Family Services finds that an emergency exists and that the adoption of the rules is necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

These rules are for the one-time distribution of 3 closed nursing home beds to a nursing home or nursing homes that serve only veterans. Following distribution of the 3 beds, the rules will be allowed to lapse.

Section 150.31, Stats., establishes a statewide bed limit for nursing homes as one means of controlling nursing home costs and Medical Assistance program expenditures. Within that bed limit a facility may close or its bed capacity may be reduced, in which case beds are freed up and may be redistributed by the Department under s. HSS 122.05(1)(c).

The Wisconsin Veterans Home at King has 4 separately licensed nursing home buildings on its grounds, and a total licensed capacity of 718 beds. It is operating at 99.9 percent of capacity with a long waiting list for admission. Managers of the Wisconsin Veterans Home have decided to close their underutilized 3 bed hospital operation at King. The 3 hospital beds are currently located in Stordock Hall. The 3 nursing home beds will replace the hospital beds. Because of the burgeoning population of older veterans, whose active service was during World War II, the Korean War, and the Vietnam War, and the immediate pressure on admissions to the facility, and the desirability of having flexibility when moving residents, Wisconsin Veterans Home managers have asked that the space previously used for hospital beds be converted to nursing home space and that 3 closed nursing home beds be transferred to the Veterans Home. These beds could be put on line immediately and provide some relief to those awaiting admission.

This rulemaking order establishes a process for considering applications for 3 closed nursing home beds to be made available to a nursing home or nursing homes that serve only veterans, that ask

for no more than 3 beds and that do not require space to be added to the building in which the beds will be located to accommodate those beds.

**Publication Date:** August 3, 1999  
**Effective Date:** August 3, 1999  
**Expiration Date:** December 31, 1999

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## EMERGENCY RULES NOW IN EFFECT

### *Higher Educational Aids Board*

Rules adopted amending s. HEA 11.03 (3) and creating s. HEA 11.03 (5), relating to the Minority Teacher Loan Program.

### Finding of Emergency

The 1989 Wis. Act 31 created s. 39.40, Stats., which provides for loans to minority students enrolled in programs of study leading to licensure as a teacher. The Wisconsin Higher Educational Aids Board (HEAB) administers this loan program under s. 39.40 and under ch. HEA 11. Current rules require that a student be enrolled full time and show financial need to be considered for participation in the Minority Teacher Loan Program. Students who did not enroll full time and did not show financial need were allowed to participate in the program in the past when part of the program was administered by another administrative body. These students are enrolled in teacher education programs that train teachers specifically for the school districts named in the statutes that outline the intent of the Minority Teacher Loan Program. Unless the Board changes its rules, many participating students will lose their eligibility in the program. This will cause a hardship to those students who relied on the interpretation of the prior system administration. Revising the rules would allow students who participated in the program in the past to continue to participate. The proposed revision will not affect expenditures of State funds for the Minority Teacher Loan Program.

**Publication Date:** August 6, 1999  
**Effective Date:** August 6, 1999  
**Expiration Date:** January 3, 2000  
**Hearing Date:** October 28, 1999

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## EMERGENCY RULES NOW IN EFFECT

### *Natural Resources*

#### **(Fish, Game, etc., Chs. NR 1-)**

Rules adopted revising ch. NR 10, relating to the 1999 migratory game bird season.

### Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulation in the establishment of migratory bird hunting seasons and conditions. General regulations are not made available to this state until mid-August of each year. This order is designed to bring the state hunting regulations into conformity with federal regulations. Normal rule-making

procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

**Publication Date:** September 10, 1999  
**Effective Date:** September 10, 1999  
**Expiration Date:** February 7, 2000  
**Hearing Date:** October 14, 1999

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## EMERGENCY RULES NOW IN EFFECT (2)

### *Natural Resources*

#### **(Environmental Protection-Water Regulation, Chs. NR 300-)**

1. Rules adopted creating ch. NR 303, relating to department determinations of navigability for farm drainage ditches.

### Exemption From Finding of Emergency

The Department was directed by the JCRAR under s. 227.26 (2) (b), Stats., to promulgate emergency rules regarding navigability

### Analysis Prepared by the Department of Natural Resources

Statutory authority: s. 227.26 (2)(b)

Statute interpreted: s. 30.10 (4)(c)

This order codifies present department program guidance for staff making navigability determinations for farm drainage ditches, identifying various methods and information to be relied on when making such determinations.

**Publication Date:** May 1, 1999  
**Effective Date:** May 1, 1999  
**Expiration Date:** September 28, 1999  
**Hearing Dates:** June 16 and 17, 1999  
**Extension Through:** November 26, 1999

2. Rules adopted creating ch. NR 328, relating to regulation of water ski platforms and water ski jumps.

### Analysis by the Department of Natural Resources

Statutory authority: ss. 30.135, 227.11 (2) (a) and 227.24

Statutes interpreted: ss. 30.66, 30.69 and 30.135

Chapter NR 328 describes the conditions where a water ski jump or platform will require a permit. It explains what constitutes a substantive written objection to a water ski jump or platform and provides a list of reasons that support a substantive written objection. It specifies the contents of a public notice and the process for making a substantive written objection. It details how the department will respond to complaints about an existing water ski jump or platform.

These rules were promulgated as emergency rules at the direction of the joint committee for review of administrative rules.

**Publication Date:** July 9, 1999  
**Effective Date:** July 9, 1999\*  
**Expiration Date:** December 6, 1999

\*Rule suspended by Joint Committee for Review of Administrative Rules on July 5, 1999.

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**EMERGENCY RULES NOW IN EFFECT*****Natural Resources*****(Environmental Protection--Investigation and Remediation, Chs. NR 700--)**

Rules adopted creating **ch. NR 746**, relating to sites contaminated with petroleum products from petroleum storage tanks.

**Finding of Emergency**

The Wisconsin Natural Resources Board finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts contributing to the emergency is:

The Department of Commerce has adopted administrative rules under ss. 101.143 and 101.144, Stats., to implement the Petroleum Environmental Cleanup Fund Act (PECFA). The purpose of PECFA is to reimburse responsible persons for the eligible costs incurred to investigate and remediate petroleum product discharges from a petroleum product storage system or home oil tank system. The recent emergency rule, ch. Comm 46, was adopted by both the Department of Natural Resources and the Department of Commerce in January 1999, incorporating parts of a Memorandum of Understanding between the two agencies that relates to the classification of contaminated sites and creating risk screening criteria for assessing petroleum-contaminated sites. However, ch. Comm 46 expired on September 27, 1999, prior to publication of the permanent rule. The emergency rule, ch. NR 746, is being proposed in order to ensure rules continue in effect during the time period between now and when the permanent rule is published. This action is also in response to a resolution adopted by the Joint Committee for Review of Administrative Rules (JCRAR), which directed the Department of Commerce and the Department of Natural Resources to promulgate a new emergency rule for this interim time period.

The emergency rule was approved and adopted by the State of Wisconsin Natural Resources Board on September 29, 1999.

**Publication Date:** October 20, 1999  
**Effective Date:** October 20, 1999  
**Expiration Date:** March 18, 2000  
**Hearing Date:** November 18, 1999  
[See Notice this Register]

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**EMERGENCY RULES NOW IN EFFECT*****Revenue***

A rule was adopted creating **s. Tax 11.20**, relating to the sales and use tax treatment of machinery and equipment used in waste reduction and recycling activities.

**Exemption From Finding of Emergency**

On February 25, 1999, the Joint Committee for Review of Administrative Rules, pursuant to s. 227.26, (2) (b), Stats., directed the Department of Revenue to use the emergency rule making process to promulgate as an emergency rule, within 30 days, its policies interpreting s. 77.54 (26m), Stats.

**Analysis by the Department of Revenue**

Statutory authority: ss. 227.11 (2) (a) & 227.26 (2) (b)

Statute interpreted: s. 77.54 (26m)

Section Tax 11.20 is created to address the sales and use tax exemptions for waste reduction and recycling activities.

**Publication Date:** March 27, 1999  
**Effective Date:** March 27, 1999  
**Expiration Date:** August 24, 1999  
**Extension Through:** October 22, 1999

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## STATEMENTS OF SCOPE OF PROPOSED RULES

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### **Commerce**

#### **(Elevators, Ch. Comm 18)**

#### **(Barrier-Free Design, Ch. Comm 69)**

##### **Subject:**

Chs. Comm 18 and 69 – Relating to elevators and mechanical lifting devices.

##### **Description of policy issues:**

###### *Description of the objective(s) of the rule:*

The objectives of this rule revision, to be incorporated into one or more rule packages, are to:

- Address code requirement clarity problems and incorporate any official code interpretations since the last code revision.
- Incorporate by reference the appropriate and most recent edition of the national standards for the design and installation of elevators and mechanical lifting devices. National standards to be considered for adoption are the American Society of Mechanical Engineers (ASME) A17.1, Safety Code for Elevators and Escalators, and the ASME A18.1, Safety Code for Platform Lifts.
- Develop safety requirements for portable and special use platform lifts.
- Clarify standards for fulfilling the objective of protecting public safety, health and welfare.
- Evaluate current policies and practices to reduce the inspection backlog, make necessary changes to reflect current operations and revise fees for submittals and inspections.
- Reflect new construction practices, products, standards or materials.

*Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives:*

a) Existing policies. The Department reviews plans and inspects elevators and mechanical lifting devices to ensure these units are designed and installed in accordance with the elevator safety rules. Currently, the Department incorporates by reference the ASME A17.1, which includes requirements for both elevators and platform lifts. To ensure the citizens of Wisconsin are safe when using elevators and other mechanical lifting devices, the Department believes that its codes and adopted standards must be viable and current, and that the plan review and inspection process fulfills this goal.

b) New policies. A new national standard, ASME A18.1, Safety Code for Platform Lifts, has been developed to address the design and installation of platform lifts. The next edition of the ASME A17.1, Safety Code for Elevators and Escalators will only address requirements relating to elevators, escalators and dumbwaiters. This rule project will:

- Update the administrative code relating to elevators and mechanical lifting devices by incorporating by reference the national standards;
- Revise the code format to address elevators and platform lifts in accordance with the respective national standard;
- Develop rules for portable and special use platform lifts.
- Evaluate the Department's current plan review and inspection procedures to ensure the safety of elevators and mechanical lifting devices by reducing the current workload backlog.

c) Analysis of policy alternatives. The Department has identified the following policy alternatives:

- The alternative of not revising these codes would result in not being up-to-date with current national standards and would not address the current inspection backlog. This alternative conflicts with the objectives outlined under "Descriptions of the objective (s) of the rule".
- The Department could review and revise current administrative rules by adopting the most recent editions of the national standards, clarifying code problems, incorporating code interpretations, and revising the current review and inspection process to reduce the workload backlog. This is the recommended alternative.

##### **Statutory authority for the rule:**

The statutory authority for the rules is found under ss. 101.02, 101.12 and 101.17, Stats.

##### **Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:**

The following is the estimated work time that staff will be involved in these necessary code change issues:

Advisory council meetings	
(Estimated 12 meetings @ 50 hrs each)	600 hours
Code topics research,	
language of drafts	200 hours
Hearings, responses, revisions to drafts	160 hours
<u>Administrative and support</u>	<u>40 hours</u>
<b>Total</b>	<b>1000 hours</b>

### **Commerce**

#### **(Plumbing, Chs. Comm 82–87)**

##### **Subject:**

Chs. Comm 83 and 87 – Relating to private sewage systems and the Private Sewage Rehabilitation Grant Program.

##### **Description of policy issues:**

###### *Description of objective(s) of the rule:*

The objective of the rule revisions for chs. Comm 83 and 87 and other related administrative rules is to reflect current technologies, products and practices that have been developed and have become available for general use since the last time the codes have been updated. The grant funding and processes under ch. Comm 87 are to be revised to reflect methods for determining partial reimbursements of costs for allowable private sewage technologies, products and practices addressed in concert with the revisions for ch. Comm 83. The proposed rule revisions may be incorporated into one or more rule-making actions and packages.

*Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives:*

Currently, ch. Comm 83 of the plumbing code establishes minimum standards for the design, installation, inspection and maintenance of private sewage systems. The rules of this chapter currently reflect the technologies, products and practices commonly accepted at the time of promulgation. The rehabilitation grant program for private sewage systems under ch. Comm 87 is primarily based upon 1980 technology and practices. Avoiding this rule-revision update will result in the continuance of rules that will not be consistent with each other and with current national practices and standards.

**Statutory authority for the rule:**

The following citations from the statutes provide the Department the authority and oversight relating to private sewage systems and rehabilitation grants:

SS. 101.02 (1), 145.02 (3) and (4), 145.13, 145.135, 145.19, 145.20 and 145.245, Stats.

**Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:**

The Department estimates that it will take approximately 1000 hours to develop these rules. The time includes forming and meeting with an advisory council for ch. Comm 87, then drafting rules and processing the rules through public hearings, legislative review and adoption. The Department will assign existing staff to develop the rules. There are no other resources necessary to develop the rules.

**Natural Resources****(Environmental Protection--Air Pollution Control, Chs. NR 400--)****Subject:**

S. NR 423.035 - Relating to control of volatile organic compound (VOC) emissions from industrial clean-up solvents.

**Description of policy issues:**

*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

The Clean Air Act Amendments of 1990 (CAAA) require that states establish reasonably available control technology (RACT) for major sources of volatile organic compound (VOC) emissions which are located in certain ozone nonattainment areas. RACT is defined as the lowest emission rate required of a source considering technological and economic feasibility. Wisconsin is also required to submit to EPA in December 2000 a demonstration plan to show that Wisconsin is meeting all federal requirements and will attain the one-hour ozone standard by 2007. All rules necessary for attainment must be adopted when this plan is submitted. The EPA has indicated it will disapprove Wisconsin's attainment demonstration unless all rules and statements of policy are finalized. Thus, the Department is proposing this rule to fulfill the requirements imposed by the CAAA.

This proposed rule will establish RACT for VOC emissions generated by industrial clean-up solvent usage. RACT will also be established for ink manufacturers and plastic parts coating operations through the use of air permits or administrative consent orders. Administrative consent orders have been utilized in the past as an alternative when only one or two facilities were affected by RACT.

This rule for industrial clean-up solvent usage will only affect facilities located in the counties of Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Washington, and Waukesha. The DNR expects multiple facilities to be affected by the proposed rule, although further investigation is needed to uncover the full extent of the rule's impact. Stakeholder groups will be consulted including industry and trade associations.

Issues that need to be resolved during rule and consent order development include establishing emission limitations that meet the definition of RACT; identifying appropriate recordkeeping, compliance demonstration, and testing methods; and further identification of affected sources.

This rule/Board action represents a change from past policy.

*Explain the facts that necessitate the proposed change:*

Currently, there are no rules restricting the emissions of volatile organic compounds (VOC) from industrial clean-up solvents. In order to satisfy the CAAA requirements, DNR must permanently control the volatile organic compound emissions from facilities in nonattainment counties that utilize industrial clean-up solvents. An initial analysis shows a possible reduction of up to 200 tons of VOC per year from the implementation of such a rule.

This rule/Board action represents an opportunity for pollution prevention and/or waste minimization. By examining control technologies and process changes, sources will have an opportunity to explore pollution prevention.

**Statutory authority for the proposed rule:**

42 USC 7511a (b) (2) and s. 285.11 (6), Wis. Stats.

**Anticipated time commitment:**

The anticipated time commitment is 474 hours. Two public hearings are proposed to be held in April 2000 at Milwaukee and Manitowoc.

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## SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE

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### Notice of Submittal of Proposed Rules to Wisconsin Legislative Council Rules Clearinghouse

*Please check the Bulletin of Proceedings for further information on a particular rule.*

#### **Chiropractic Examining Board**

##### **Rule Submittal Date**

On October 15, 1999, the Chiropractic Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

##### **Analysis**

Statutory Authority: ss. 15.08 (5) (b) and 227.11 (2), Stats.

The proposed rule-making order creates s. Chir 4.07, relating to practice while suspended.

##### **Agency Procedure for Promulgation**

A public hearing is required and will be held on Thursday, November 18, 1999, at 9:45 a.m. in Room 179A at 1400 East Washington Avenue, Madison, Wisconsin.

##### **Contact Information**

Pamela Haack  
Administrative Rules Coordinator  
Telephone (608) 266-0495

#### **Chiropractic Examining Board**

##### **Rule Submittal Date**

On October 15, 1999, the Chiropractic Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

##### **Analysis**

Statutory Authority: ss. 15.08 (5) (b) and 227.11 (2), Stats.

The proposed rule-making order creates s. Chir 4.06, relating to utilization reviews.

##### **Agency Procedure for Promulgation**

A public hearing is required and will be held on Thursday, November 18, 1999, at 9:45 a.m. in Room 179A at 1400 East Washington Avenue, Madison, Wisconsin.

##### **Contact Information**

Pamela Haack  
Administrative Rules Coordinator  
Telephone (608) 266-0495

#### **Commerce**

##### **Rule Submittal Date**

On October 14, 1999, the Department of Commerce submitted a proposed rule to the Legislative Council Rules Clearinghouse.

##### **Analysis**

The proposed rule affects chs. Comm 2, 3, 20, 50 to 64, 66, 70, 75 and 90, relating to one- and two-family dwellings, commercial buildings, and multi-family dwellings.

##### **Agency Procedure for Promulgation**

A public hearing is required and will be held on Friday, November 19, 1999 at 10:00 a.m. in Conference Room 3B, Third Floor, 201 West Washington Ave., Madison. The agency unit responsible for the promulgation of the proposed rule is the Safety and Buildings Division.

##### **Contact Information**

If you have questions regarding this rule, you may contact:

Sam Rockweiler  
Telephone: (608) 266-0797  
TDD#: (608) 264-8777  
Email: [www.commerce.state.wi.us](http://www.commerce.state.wi.us)

#### **Health and Family Services**

##### **(Community Services, Chs. HFS/HSS 30--)**

##### **Rule Submittal Date**

On October 8, 1999, the Department of Health and Family Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

##### **Analysis**

##### **Statutory authority:**

Section 51.42 (7) (b), Stats.

The proposed rule affects ch. HFS 32, relating to community mental health inpatient treatment programs.

##### **Reason for rules, intended effects, requirements:**

This is a renumbering, consolidation, updating and expansion of the Department's rules for certification of community mental health inpatient treatment programs. There are 49 certified programs. All are in hospitals, and consequently the rules refer to these programs as "services." The current rules are in ss. HFS 61.70 to 61.72. Programs must now also comply with general provisions included in subch. I of ch. HFS 61 which includes definitions, personnel qualifications and enforcement provisions.

This is one of 7 sets of standards for community mental health programs that are part of an updating project, each set to be made a separate chapter of rules. For 5 of the chapters, including this one, the Department of Health and Family Services is pulling the standards out of ch. HFS 61 and, in the process, updating them and adding to them. Two of the 7 chapters are now in effect, ch. HFS 34, Emergency Service Programs, and ch. HFS 40, Day Treatment Programs for Children.

The revised rules include parts which are standard in all chapters of revised community mental health standards. Standard sections are on Certification, Waivers, Patient Rights and Patient Satisfaction. Some other rule parts, such as Qualifications of Clinical Staff and several definitions, are also the same or nearly the same in all chapters.



By comparison with the current rules, the revised rules are more specific about the qualifications of clinical staff and more detailed about the use of restraints and isolation and actions that may be taken against a certified service for violating rules. The revised rules include new requirements concerning clinical supervision, orientation and inservice training for staff, required caregiver checks, screening at admission, treatment provided to children, treatment plan review and the reporting of certain patient deaths.

*Forms:*

DCS-336 MENTAL HEALTH INPATIENT APPLICATION (S. HFS 32.04 (1)) [to be revised by the effective date of the new rules]

**Agency Procedure for Promulgation**

Public hearings under ss. 227.16, 227.17 and 227.18, Stats.; approval of rules in final draft form by DHFS Secretary; and legislative standing committee review under s. 227.19, Stats.

**Contact Information**

Dennis Bobo  
Division of Supportive Living  
Telephone (608) 267-7711

**Health and Family Services  
(Community Services, Chs. HFS/HSS 30--)**

**Rule Submittal Date**

On October 6, 1999, the Department of Health and Family Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

**Analysis**

*Statutory authority:*

Section 51.42 (7) (b), Stats.

The proposed rule affects ch. HFS 33, relating to mental health day treatment programs for adults.

*Reason for rules, intended effects, requirements:*

This is a renumbering, general revision and expansion of the Department's rules for certification of mental health day treatment programs for adults. There are 58 certified programs in Wisconsin. The current rules are in s. HFS 61.75. Programs must now also comply with general provisions included in subch. I of ch. HFS 61 which includes definitions, personnel qualifications and enforcement provisions.

This is one of 7 sets of standards for community mental health programs that are part of an updating project, each set to be made a separate chapter of rules. For 5 of the chapters, including this one, the Department of Health and Family Services is pulling the standards out of ch. HFS 61 and, in the process, updating them and adding to them. Two of the 7 chapters are now in effect, ch. HFS 34, Emergency Service Programs, and ch. HFS 40, Day Treatment Programs for Children. All chapters will have some common parts, such as the sections on certification, waivers, client rights and client satisfaction.

A mental health day treatment program is a nonresidential, medically-supervised program that offers a schedule of active treatment services provided in a therapeutic milieu and aimed at averting or shortening an individual's need for inpatient mental health services and improving the individual's ability to function as independently as possible.

The revised rules add:

- 1) Qualifications of professional staff;
- 2) A detailed certification process;
- 3) Staff training requirements;
- 4) Staffing levels by purpose of admission;
- 5) Criteria for admission; and
- 6) Requirements relating to consent to treatment, suicide prevention, administration of psychotropic medications, early termination of services and preparation of a discharge summary.

*Forms:*

DCS-336 MENTAL HEALTH MEDICAL DAY TREATMENT PROGRAM APPLICATION (S. HFS 33.05 (1)) [to be revised by the effective date of the new rules]

**Agency Procedure for Promulgation**

Public hearings under ss. 227.16, 227.17 and 227.18, Stats.; approval of rules in final draft form by DHFS Secretary; and legislative standing committee review under s. 227.19, Stats.

**Contact Information**

Dennis Bobo  
Division of Supportive Living  
Telephone (608) 267-7711

**Transportation**

**Rule Submittal Date**

On October 14, 1999, the Department of Transportation submitted a proposed rule to the Legislative Council Rules Clearinghouse.

**Analysis**

The proposed rule affects ch. Trans 316, relating to wood harvesting slashers.

**Agency Procedure for Promulgation**

A public hearing is not required. The Division of State Patrol is the organizational unit responsible for promulgation of the proposed rule.

**Contact Information**

Julie A. Johnson, Paralegal  
Telephone (608) 266-8810  
FAX (608) 267-6734

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# NOTICE SECTION

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## Notice of Hearing Chiropractic Examining Board [CR 99-147]

Notice is hereby given that pursuant to authority vested in the Chiropractic Examining Board in ss. 15.08 (5) (b) and 227.11 (2), Stats., and interpreting s. 446.01 (2), Stats., the Chiropractic Examining Board will hold a public hearing at the time and place indicated below to consider an order to create s. Chir 4.06, relating to utilization reviews.

### Hearing Information

November 18, 1999 Thursday at 9:45 a.m.	Room 179A 1400 East Washington Ave. Madison, WI
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### Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **December 2, 1999** to be included in the record of rule-making proceedings.

### Analysis Prepared by the Dept. of Regulation and Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b) and 227.11 (2)

Statute interpreted: s. 446.01 (2)

In this proposed rule-making order, the Chiropractic Examining Board defines utilization review as an activity within the scope of practice of chiropractic and ensures that utilization reviews of chiropractic are performed by qualified persons familiar with Wisconsin law. This rule clarifies that a utilization review of a chiropractor's records of analysis, diagnosis, and treatment constitutes the practice of chiropractic and requires that the review be performed by a licensed chiropractor.

### Text of Rule

**SECTION 1.** Chir 4.06 is created to read:

**Chir 4.06 Utilization review.** A utilization review of a chiropractor's records of analysis, diagnosis, and treatment constitutes the practice of chiropractic and may only be performed by a person who has been licensed as a chiropractor under s. 446.02, Stats., for a period of at least 2 years.

### Fiscal Estimate

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

### Initial Regulatory Flexibility Analysis

These proposed rules will be reviewed by the Department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

## ***Copies of Rule and Contact Information***

Copies of this proposed rule are available without cost upon request to:

Pamela Haack  
Department of Regulation and Licensing  
Office of Administrative Rules  
1400 East Washington Avenue, Room 171  
P.O. Box 8935  
Madison, WI 53708  
  
Telephone (608) 266-0495

## **Notice of Hearing** ***Chiropractic Examining Board*** ***[CR 99-148]***

Notice is hereby given that pursuant to authority vested in the Chiropractic Examining Board in ss. 15.08 (5) (b) and 227.11 (2), Stats., and interpreting s. 446.01 (2), Stats., the Chiropractic Examining Board will hold a public hearing at the time and place indicated below to consider an order to create s. Chir 4.07, relating to practice while suspended.

### ***Hearing Information***

November 18, 1999      Room 179A  
Thursday      1400 East Washington Ave.  
at 9:45 a.m.      Madison, WI

### ***Written Comments***

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **December 2, 1999** to be included in the record of rule-making proceedings.

### ***Analysis Prepared by the Dept. of Regulation and Licensing***

Statutes authorizing promulgation: ss. 15.08 (5) (b) and 227.11 (2)

Statute interpreted: s. 446.01 (2)

In this proposed rule-making order, the Chiropractic Examining Board creates a section under ch. Chir 4 relating to the duties a chiropractor whose license has been suspended may not perform during the period of suspension. This proposed rule would require that during the period of suspension the chiropractor may not perform any of the functions in s. Chir 4.03, have any professional contact with patients, and be present in any chiropractic office, other than to receive care. The chiropractor can have no contact with patients that would affect the health, welfare and safety of patients.

### ***Text of Rule***

**SECTION 1.** Chir 4.07 is created to read:

**Chir 4.07 Suspension.** During a period in which a licensee is suspended under s. 446.03, Stats., unless the board specifies otherwise in its final order or a subsequent order, the licensee shall not:

- (1) Perform any of the functions in s. Chir 4.03.
- (2) Have any professional contact with patients.
- (3) Be present in any chiropractic office, other than to receive care.

### ***Fiscal Estimate***

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: The fiscal impact to implement this rule may include special board meetings and include additional administrative costs for telephone, board member per diem and travel expenses. The estimate is \$500 annually. The agency will be able to absorb these costs within the current budget authority.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

### ***Initial Regulatory Flexibility Analysis***

These proposed rules will be reviewed by the Department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

### ***Copies of Rule and Contact Information***

Copies of this proposed rule are available without cost upon request to:

Pamela Haack  
Department of Regulation and Licensing  
Office of Administrative Rules  
1400 East Washington Avenue, Room 171  
P.O. Box 8935  
Madison, WI 53708

Telephone (608) 266-0495

## **Notice of Hearing**

### ***Commerce***

*(Fee Schedule, Ch. Comm 2)*  
*(Petition for Variance, Ch. Comm3)*  
*(Uniform Dwelling, Chs. Comm 20-25)*  
*(Building & Heating, etc.,*  
*Chs. Comm 50-64)*  
*(Multifamily Dwelling, Ch. Comm 66)*  
*(Historic Buildings, Ch. Comm 70)*  
*(Existing Buildings, Ch. Comm 75)*  
*(Swimming Pools, Ch. Comm 90)*  
***[CR 99-143]***

Notice is hereby given that pursuant to ss. 101.02 (1) and (15), 101.63 (1), and 101.973 (1), Stats., the Department of Commerce announces that it will hold public hearings on proposed rules relating to One- and Two-Family Dwellings, Commercial Buildings, and Multifamily Dwellings.

### **Hearing Information**

**November 19, 1999**      **Third Floor**  
**Friday**                      **Conference Room 3B**  
**Commencing at 10:00 a.m.**      **201 W. Washington Ave.**  
   **Madison, WI**

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **December 3, 1999**, to permit submittal of written comments from persons who are unable to attend a hearing or who wish to supplement testimony offered at a hearing.

This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or TTY at (608) 264-8777 at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon request by a person with a disability.

## ***Analysis of Proposed Rules***

Statutory Authority: ss. 101.02 (1) and (15), 101.121 (3), 101.63 (1), and 101.973 (1)

Statutes Interpreted: ss. 101.02 (5) and (15), 101.05, 101.12, 101.121, 101.63 (9), 101.64 (4) and (6), 101.973 (1) and (7), and 101.974 (3) and (4)

Under the statutes cited, the Department protects public health, safety, and welfare by promulgating construction requirements for commercial buildings and structures, historic buildings, one- and two-family dwellings, and multifamily dwellings. These requirements are currently contained in chapters Comm 50 to 64, Comm 70, Comm 20 to 25, and Comm 66, respectively.

The proposed revisions are primarily intended to update the administration and enforcement elements of the commercial building code and the multifamily dwelling code to make them consistent with current policies and practices, and to increase the opportunities under those two codes for building designers to receive plan approvals and inspections from local governments rather than from the Department. Minor changes are also included to update the material approval process for those two codes and for the one- and two-family dwelling code.

The revisions would also repeal the life-safety requirements for public schools constructed before 1950, and clarify some problematic, minor technical provisions.

The following list is a detailed summary of the major revisions included in this proposal. The sequence of the list generally corresponds to the numerical sequence of the affected existing code sections, and the existing or proposed code sections are noted.

1. Fees are established for the Division's role in administering plan review by second class cities and appointed agents. [Comm 2.31 (1) (e) and (f)]
2. Fees are established for notifying the Department of election to use a registered individual for design and supervision for certain types of small buildings in lieu of Departmental plan approval. [Comm 2.31 (1) (g)]
3. Fees are established for approvals of alternate and experimental materials, and approvals of alternate standards. [Comm 2.51]
4. On option is established that allows including more than one building in a petition for variance. [Comm 2.52 (3) (b) and (d)]
5. The petition for variance procedures are revised to remove the reference to specific staff, except for the Division Administrator and Department Secretary, from the formal review process. [Comm 3.02 (3) and (6); Comm 3.03 (3) (a), (c), (d), and (e) (intro.), 1., and 3.; (4); (6) (a); and (7); Comm 3.04 (1) (intro.), 1., and 3., (b), and (c); (3) (d); (4); (5) (a) to (c), and (d) (intro.) and 1.; (6); and (8); Comm 3.05 (2) (a) and (b) and (3) (a) to (f); and Comm 3.06 (2) (a)]
6. The process for appealing a decision on a petition for variance is changed to clarify the appropriate functions performed at the division and department levels. [Comm 3.06 (2) to (10)]
7. The process for issuing building material approvals is changed to address approval of products that comply with the intent but not the text of the code, and to authorize experimental approvals of unproven products for the purpose of determining compliance with the code. The process change also includes repealing a requirement to obtain Departmental approval for light-transmitting plastics and direct-vent sealed-combustion-chamber appliances, and repealing an optional procedure for independent testing laboratories to obtain Departmental recognition. This process change is proposed for all three of the major building codes – the commercial building code, the multifamily dwelling code, and the one- and two-family dwelling code. [Comm 20 Subchapter VI, 50.19, and 66.25]
8. A process is codified in all three of the Department's major building codes for allowing use of a standard specification that is equivalent to or more stringent than a standard which is incorporated by reference in the code. [Comm 20.24 (3) and 51.25 (3)]
9. Language is created that requires compliance with the code in effect at the time of construction in the event a commercial building is converted from being exempt from the code to being not exempt. [Comm 50.03 (5)]
10. A process is codified for local officials to use in allowing temporary use of commercial buildings. [Comm 50.03 (6)]
11. The current language exempting farm buildings from the commercial building code is clarified. [Comm 50.04 (2)]
12. Buildings leased exclusively to the federal government are exempted from the commercial building code. Buildings leased in part to the federal government are exempted only if the lease provides for long-term federal control of the design and operating decisions. Owners of buildings exempted under this criteria are required to record notification of the exemption and notification of the applicability of the commercial building code in the event other use ensues. [Comm 50.04 (6)]
13. The list of buildings exempt from the commercial building code is expanded to include (A) a one- or two-family dwelling used as a foster home, treatment foster home, or group home, or as a child caring institution having a capacity for 8 or fewer children; (B) a one- or two-family dwelling in which a public or private day care center for 8 or fewer children is located; (C) a one-classroom school building operated by and for members of a bona fide religious denomination that has teachings and beliefs prohibiting use of products, devices, or designs which are needed to comply with the code; and (D) any building or portion of a building that is exempted from the code by federal or state law. [Comm 50.04 (11), (12), (14), and (15)]
14. The current language is expanded and clarified for electing to comply with the historic building code, rather than the commercial building code or the existing buildings code, for qualified historic buildings. [Comm 50.055, 70.03 (1) (a) 3., and 75.001 (1) (e)]
15. References to sample Departmental forms in the Appendix are deleted, the sample forms are deleted from the Appendix, and Notes are added stating that some forms are available from the Division's web site. [Comm 50.10 (3), 50.25, 50 to 64 Appendix, 66.09 to 66.26, and 66 Appendix.]
16. Departmental plan examination is exempted for small greenhouses and mini-storage buildings, which are specified as containing less than 25,000 cubic feet total volume. [Comm 50.12 (1) (i) 1.]
17. Departmental plan examination is exempted for antenna structures. [Comm 50.12 (1) (i) 2.]
18. An option is created that allows substituting Department plan approval with design and construction supervision by a registered design professional, for (A) buildings which contain from 25,000 to 50,000 cubic feet of volume and which are storage garages, greenhouses, mini-storage buildings, or within the scope of ch. Comm 54, such as factories and office buildings; and (B) buildings which contain less than 25,000 cubic feet and which are within the scopes of chs. Comm 55 to 61 and 66, such as theaters, assembly halls, schools, hotels, motels, multifamily dwellings, health care facilities, places of detention, airplane hangers, child day care facilities, and community-based residential facilities. Where this option is elected, a written notice and filing fee must be sent to the Department. [Comm 50.12 (1) and 66.14 (1b)]

19. Language is created for commercial buildings and multifamily dwellings that requires submittal of structural component plans to the Department, and requires the design to be by a registered professional for buildings containing volumes exceeding 50,000 cubic feet. [Comm 50.12 (3) (g) and 66.14 (2) (f)]
20. Language is created for commercial buildings that clarifies submittal requirements for individually-owned or leased spaces within multiple-tenant or-owner buildings, or for additions to existing buildings, particularly for buildings where previous submittals were to another review office. [Comm 50.12 (4) (e)]
21. Language is created for commercial buildings and multifamily dwellings that allows 2<sup>nd</sup> class cities, under specified conditions, to review plans for the large buildings which formerly were reviewed only by the Department and first class cities. The specified conditions include (A) having a registered architect or engineer supervise the review, (B) collecting the same building and owner application information as required by the Department, and (C) providing program administration fees and monthly activity reports to the Department. The language includes submittal instructions for projects with multiple submittals that are not directed to the same review office. [Comm 50.21 (2) (j), and (5) (b) and (e) 1. b. and 4. to 9.; and 66.24 (2) (k), and (5) (b) and (e) 3. b. and 4. to 7.]
22. Language is created for commercial buildings and multifamily dwellings that allows a municipality to choose to assume only the Department's inspection responsibilities, rather than assume both inspection and plan review responsibilities. [Comm 50.21 (2) (k) and 66.24 (2) (l)]
23. Language is created for commercial buildings and multifamily dwellings that allows a certified municipality to review plans for any building addition containing no more than 2,500 square feet of total floor area and no more than one floor level, provided the largest roof span does not exceed 18 feet and the exterior wall height does not exceed 12 feet. [Comm 50.21 (5) (c) 3. b. and 66.24 (5) (c) 3. b.]
24. Language is created for commercial buildings that allows a municipality to retain its plan approval records in an electronic-based format rather than retain the original documents, and allows disposal of the records or documents after four years. [Comm 50.21 (5) (f) 1. b.]
25. Language is created for commercial buildings and multifamily dwellings that allows a municipality, under specified conditions, to become an appointed agent of the Department, for reviewing plans and performing inspections for any building which would otherwise be the responsibility of the Department. The specified conditions include (A) documenting the qualifications of the municipality, (B) documenting the Department's responsibilities that are desired by the municipality, (C) collecting the same building and owner application information as required by the Department, and (C) providing program administration fees and monthly activity reports to the Department. The language includes submittal instructions for projects with multiple submittals that are not directed to the same review office. [Comm 50.22 and 66.24 (8)]
26. Language is created describing the appeal process for any person who owns or occupies property that is affected by an order of the Department. [Comm 50.27]
27. A national standard for testing flame-resistant textiles and films is incorporated into the commercial building code. [Comm Table 51.25-17 Line 17]
28. Language is created that allows omitting toilet rooms in retail or mercantile buildings which accommodate no more than 25 occupants, provided (A) other restrooms are conveniently available, (B) the omission is approved in writing by the local unit of government, and (C) the written local approval is filed with the Department. [Comm 54.12 (1) (a) and (2) (b) 4.]
29. Language for the number of sanitary fixtures at public swimming facilities is clarified to more clearly convey the minimum number of fixtures that are required by the commercial building code, the multifamily dwelling code, or the public swimming pool code. [Comm 54.05 (4); 54.12 (1) (c) Note; Table 54.12-A and Footnotes 1 and 2; 54.12-B Notes (2) and (3); 55.32 (2) Note; Table 55.32, Footnote 4, and Notes (2) and (5); 66.45 (2) (b) 2; and 90.16 (1)]
30. Language is created for self-service gasoline stations that use a key- or card-operated fuel dispensing device, which allows toilet rooms to be unavailable during periods when the station is unattended by an employee. [Comm 54.12 (2) (f) 2. b.]
31. Language is repealed that allows only the Department or 1<sup>st</sup> class cities to perform statutorily required maintenance inspections of public schools. [Comm 56.21]
32. Life-safety requirements for public schools constructed before 1950 are repealed. [Comm 56 Subchapter IV]
33. The scope sections of Comm 57 and 66 are clarified to more clearly convey that Comm 57, rather than Comm 66, applies to an addition or alteration for multifamily dwellings that were approved prior to the implementation of Comm 66 in 1995. [Comm 57.001 (1) (k) and 66.02 (1) (a) to (d)]
34. Language is created that allows supporting an antenna system with a structure that is used for electric power or communication systems, provided a registered architect or engineer determines the support system will sustain all the live, dead, and special loads imposed on it. [Comm 62.40]
35. Language is created that codifies the design and construction requirements which are currently applied to membrane structures. [Comm 62 Subchapter IV]
36. A previous cross-reference is reinscribed requiring only one means of egress from a loft. [Comm 66.345 (3) (a)]
37. Language is created clarifying how the Comm 52.07 atrium requirements apply to multifamily dwellings. [Comm 66.41 (4) (d)]

A copy of the proposed rules may be obtained without cost from Roberta Ward, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, Wisconsin 53701, telephone (608)266-8741, or (608) 264-8777 (TTY). Copies will also be available at the public hearings.

## ***Environmental Assessment***

Notice is hereby given that the Department has prepared a preliminary Environmental Assessment (EA) on the proposed rules. The preliminary recommendation is a finding of no significant impact. Copies of the preliminary EA are available from the Department on request and will be available at the public hearings. Requests for the EA and comments on the EA should be directed to:

Robert Langstroth  
Division of Safety & Buildings  
Department of Commerce  
P.O. Box 2689  
Madison, WI 53701  
Telephone (608) 264-8801  
or TTY (608) 264-8777

Written comments will be accepted until **December 3, 1999**.

### ***Initial Regulatory Flexibility Analysis***

1. Types of small businesses that will be affected by the rules.  
Builders and owners of commercial buildings and multifamily dwellings may encounter lower costs in receiving plan approvals and inspections from local governments rather than from the Department.
2. Reporting, bookkeeping and other procedures required for compliance with the rules.  
No new requirements.
3. Types of professional skills necessary for compliance with the rules.  
No new requirements.

### ***Fiscal Estimate***

The Department is promulgating minor changes that primarily relate to administering the commercial building code and the uniform multifamily dwellings code. These changes are currently expected to have no significant long-term impacts on costs or revenues at either state or local levels.

## **Notice of Hearing** ***Commerce & Natural Resources*** ***(Petroleum Environmental Cleanup Fund*** ***Interagency Responsibilities,*** ***Chs. Comm 46 & NR 746)***

Notice is hereby given that, pursuant to s. 227.11 (2)(a), 227.24 and 227.26 (2)(b), Stats., interpreting ss. 101.143, 101.144, 292.11 and 292.31 and ch. 160, Stats., the Department of Commerce and the Department of Natural Resources will hold a joint public hearing on the creation of a joint emergency rule in ch. Comm 46 and ch. NR 746, Wis. Adm. Code, relating to sites contaminated with petroleum products from petroleum storage tanks.

Notice is hereby further given that pursuant to s. 227.114, Stats., it is not anticipated that the proposed emergency rule will have any negative economic impact on small businesses.

Notice is hereby further given that the Department of Commerce and the Department of Natural Resources have each made a preliminary determination that the creation of ch. Comm 46 and ch. NR 746 does not involve significant adverse environmental effects and does not need an environmental analysis under ch. Comm 1 or NR 150, Wis. Adm. Code, respectively. However, based on the comments received, the Department of Commerce or the Department of Natural Resources may prepare an environmental analysis. This environmental review document would summarize the Department's consideration of the impacts of the emergency rule and reasonable alternatives.

### ***Hearing Information***

November 18, 1999  
Thursday  
1:00 p.m.  
Room 027  
GEF II Office Bldg.  
101 S. Webster St.  
Madison, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Patrick McCutcheon at (608) 264-6019 with specific information on your request at least 5 business days before the date of the scheduled hearing.



## Written Comments

Written comments on the emergency rule ch. Comm 46 and ch. NR 746, adopted by the Department of Commerce and the Department of Natural Resources, may be submitted to Sam Rockweiler, Department of Commerce, 201 W. Washington Avenue, 4th Floor, P.O. Box 2689, Madison, WI 53707-2689, and Patrick McCutcheon, Bureau for Remediation and Redevelopment, DNR, 101 S. Webster Street, P.O. Box 7921, Madison, WI 53707-7921, no later than **December 17, 1999**. Written comments that are mailed to the Departments will be given the same weight and effect as oral statements presented at the hearings. A copy of emergency rule ch. Comm 46 and ch. NR 746, and the corresponding fiscal estimates, may be obtained from Sam Rockweiler at (608) 266-0797 and Patrick McCutcheon at (608) 264-6019.

## Fiscal Estimate

The Department is promulgating the rule to codify provisions in the working relationship between the Departments of Natural Resources and Commerce in the administration of the PECFA program. At this point in time, the longer term fiscal impact of these changes cannot be determined. A workload study will follow that will be completed by the two agencies after implementation and assessment of impact.

## Notice of Hearing Controlled Substances Board [CR 99-125]

Notice is hereby given that pursuant to authority vested in the Controlled Substances Board in ss. 961.11 (1) and (2), 961.15, 961.17 and 961.19, Stats., and interpreting ss. 961.16, 961.18 and 961.20, Stats., the Controlled Substances Board will hold a public hearing at the time and place indicated below to consider an order to create s. CSB 2.25, relating to the scheduling of certain drugs under ch. 961, Stats., the Uniform Controlled Substances Act.

## Hearing Information

December 1, 1999                      Room 179A  
Wednesday                      1400 East Washington Ave.  
at 9:15 a.m.                      Madison, WI

## Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **December 10, 1999**, to be included in the record of rule-making proceedings.

## Analysis Prepared by the Dept. of Regulation and Licensing

Statutes authorizing promulgation: ss. 961.11 (1) and (2), 961.15, 961.17 and 961.19

Statutes interpreted: ss. 961.16, 961.18 and 961.20

This proposed rule-making order of the Controlled Substances Board involves the scheduling of six drugs under ch. 961, Stats., the Uniform Controlled Substances Act (CSA). A review the federal controlled Substances Act (FCSA) indicates that the federal Drug Enforcement Administration (DEA) has scheduled five drugs under the FCSA that are not currently scheduled in this state. Also, the DEA has changed the scheduling of one drug resulting in its currently being federally classified differently than in this state.

The proposed rule would add Remifentanyl to Schedule II of the CSA, add Fenproporex, Modafinil, Sibutramine and Zolpidem to Schedule IV, and transfer Dronabinol from Schedule II to Schedule III. It also corrects the spelling of the Schedule II drug, Carfentanil.

Drugs that are classified as "controlled substances" under federal and state laws are subject to higher civil and criminal penalties for their illicit possession, distribution and use than other drugs that are not so classified. Health care providers are also subject to greater recordkeeping requirements respecting their obtaining, prescribing and dispensing of such drugs. This is due to the fact that certain drugs have a greater likelihood of abuse, addiction and adverse consequences to patient health if utilized inappropriately than do other drugs. The primary agency involved in investigating and evaluating drugs for their abuse and addictive potential is the FDA. In doing so, it utilizes several factors that are counterparts to those listed in s. 961.11 (1m), Stats., including scientific testing and public input in determining whether a drug should be subjected to higher recordkeeping and penalty provisions for controlled substances, and, if so, into which schedule the medication should be placed. The classifications of the drugs under this rule will bring this state's treatment of them into conformity with that accorded at the federal level.

## Text of Rule

SECTION 1. CSB 2.25 is created to read:

CSB 2.25 Addition of remifentanyl to schedule II; transfer of dronabinol from schedule II to schedule III; addition of fenproporex, modafinil, sibutramine and zolpidem to schedule IV. (1) Section

961.16 (3) (cm), Stats., is amended to read:

(cm) ~~Carfentanil~~ Carfentanil;



- (2) Section 961.16 (3) (xm), Stats., is created to read:  
(xm) Remifentanyl;
- (3) Section 961.16 (1) (a), Stats., is repealed.
- (4) Section 961.18 (4m), Stats., is created to read:  
(4m) HALLUCINOGENIC SUBSTANCES. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. food and drug administration approved drug product. (Other names for dronabinol are (6*R*-trans)-6a, 7, 8, 10a-tetrahydro-6, 6, 9-trimethyl-3-pentyl-6H-dibenzo(b, d)pyran-1-ol, and (-)-delta-9-(trans)-tetrahydrocannabinol.)
- (5) Section 961.20 (2) (o), Stats., is created to read:  
(o) Zolpidem.
- (6) Section 961.20 (2m) (at), (bu) and (f), Stats., is created to read:  
(at) Fenproporex.  
(bu) Modafinil.  
(f) Sibutramine.

### ***Fiscal Estimate***

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

### ***Initial Regulatory Flexibility Analysis***

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

### ***Copies of Rule and Contact Information***

Copies of this proposed rule are available without cost upon request to:

Pamela Haack  
Department of Regulation and Licensing  
Office of Administrative Rules  
1400 East Washington Avenue, Room 171  
P.O. Box 8935  
Madison, WI 53708  
  
Telephone (608) 266-0495

## **Notice of Hearing**

### ***Natural Resources***

***(Fish, Game, etc., Chs. NR 1--)***  
***[CR 99-43]***

Notice is hereby given that pursuant to ss. 29.039 and 227.11 (2) (a), Stats., interpreting s. 29.039, Stats., the Department of Natural Resources will hold a public hearing on revisions to s. NR 19.27 and the creation of s. NR 19.26, Wis. Adm. Code, relating to regulating the harvest, possession and sale of native amphibians, lizards and snakes which are not listed as threatened or endangered.

### ***Agency Analysis***

The proposed rule allows residents to possess 5 specimens of most species with exceptions for several snakes that have lower or no possession limits for specimens harvested within the state. Three snake species, the bullsnake, black rat snake and yellow-bellied racer, are proposed for addition to s. NR 10.02 (protected wild animals). The proposed rule also permits the importation of all native amphibians and reptiles into Wisconsin, except those listed as threatened or endangered, without possession limits. The proposed rule eliminates the sale of all native amphibians and reptiles harvested in Wisconsin except for three amphibian species. The proposed rule does allow for the instate sale of native amphibians and reptiles legally harvested outside of Wisconsin for approved education and research. The proposed rule also establishes permitting and reporting requirements for people collecting the three native amphibians that are legal for sale and for anyone buying, importing and/or selling amphibians and reptiles.

### ***Initial Regulatory Flexibility Analysis***

Notice is hereby further given that pursuant to s. 227.114, Stats., the proposed rule may have an impact on small businesses. The initial regulatory flexibility analysis is as follows:

- a. Types of small businesses affected: Biological supply houses and pet houses.
- b. Description of reporting and bookkeeping procedures required: All businesses wishing to sell, barter or trade bullfrogs, leopard frogs, mudpuppies and tiger salamanders will be required to maintain accurate records and submit these records to the Department annually.
- c. Description of professional skills required: No new skills.

## **Environmental Assessment**

Notice is hereby further given that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review documents would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

## **Hearing Information**

Notice is hereby further given that the hearing will be held on:

**November 16, 1999**                      **Room 027, GEF #2**  
**Tuesday**                                **101 South Webster St.**  
   **Madison, WI**  
**at 5:00 p.m.**

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Robert Hay at (608) 267-0849 with specific information on your request at least 10 days before the date of the scheduled hearing.

## **Written Comments and Contact Information**

Written comments on the proposed rule may be submitted to Mr. Robert Hay, Bureau of Endangered Resources, P.O. Box 7921, Madison, WI 53707 no later than **November 29, 1999**. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [ER-60-98] and fiscal estimate may be obtained from Mr. Hay.

## **Fiscal Estimate**

### Summary of bill:

This proposed rule will establish new harvest, possession and sales regulations for Wisconsin's amphibians and reptiles. Sales will only be authorized upon issuance of a newly-created permit by the Department.

### Fiscal impact:

The Endangered Resources program costs associated with this rule are estimated at \$1,000 annually in order to administer the permit process for commercial amphibian sales. The DNR anticipates selling approximately 20 permits annually.

## **Notice of Proposed Rule**

### *Revenue*

*[CR 99-134]*

Notice is hereby given that pursuant to s. 227.11 (2) (a), Stats., and interpreting ss. 77.70 and 77.9941 (1) and (3), Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Department of Revenue will adopt the following rules as proposed in this notice without public hearing unless, within 30 days after publication of this notice on **November 1, 1999**, it is petitioned for a public hearing by 25 natural persons who will be affected by the rule, a municipality which will be affected by the rule, or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

## **Contact Information**

Please contact Mark Wipperfurth at (608) 266-8253, if you have any questions regarding this proposed rule order.

## **Analysis by the Dept. of Revenue**

Statutory authority: s. 227.11 (2) (a)

Statutes interpreted: ss. 77.70 and 77.9941 (1) and (3)

SECTION 1. Tax 11.96 is created, to set forth Department policy relating to what constitutes timely delivery to the Secretary of Revenue, of an ordinance to adopt or repeal a county sales and use tax or a premier resort area tax.

## **Text of Rule**

SECTION 1. Tax 11.96 is created to read:

**Tax 11.96 Delivery of ordinance; county and premier resort area tax.** (1) PURPOSE. This section clarifies requirements for the timely delivery of county sales and use tax and premier resort area tax ordinances to the secretary of revenue.

(2) TIME REQUIREMENT FOR DELIVERY. (a) *Adoption ordinance.* Any Wisconsin county may impose county sales and use taxes and any Wisconsin municipality or county wholly within a premier resort area under s. 66.307, Stats., may impose a premier resort area tax, by adopting an ordinance. Under ss. 77.70 and 77.9941 (1), Stats., a certified copy of that ordinance shall be delivered to the secretary of revenue at least 120 days prior to its effective date.

(b) *Repeal ordinance.* Under ss. 77.70 and 77.9941 (3), Stats., a county or municipality described in par. (a) may repeal a county sales and use tax or a premier resort area tax by delivering a certified copy of the repeal ordinance to the secretary of revenue at least 60 days before the effective date of the repeal.

**Note:** An ordinance to adopt or repeal a county sales and use tax or a premier resort area tax should be mailed to Wisconsin Department of Revenue, Office of the Secretary, P.O. Box 8933, Madison, WI 53708–8933 or delivered to 125 South Webster Street, Madison, Wisconsin.

(3) DELIVERY OF ORDINANCE. An ordinance referred to in s. 77.70 or 77.9941 (1) or (3), Stats., is timely delivered to the secretary of revenue if, by the prescribed number of days before the effective date, any of the following occur:

(a) The ordinance is hand delivered to and received by the secretary of revenue.

(b) The ordinance is mailed in a properly addressed envelope with the postage duly prepaid, if the envelope is postmarked before midnight and the ordinance is received by the secretary of revenue within 5 days after the prescribed date.

(c) The ordinance is delivered by a carrier other than the U.S. postal service and the ordinance is received by the secretary of revenue.

**Note:** Section Tax 11.96 interprets ss. 77.70 and 77.9941 (1) and (3), Stats.

## ***Initial Regulatory Flexibility Analysis***

This proposed rule order does not have a significant economic impact on a substantial number of small businesses.

## ***Fiscal Estimate***

The proposed order updates the Department of Revenue’s administrative code setting forth Department policy relating to what constitutes timely delivery to the Secretary of Revenue of an ordinance to adopt or repeal a county sales and use tax or a premier resort area tax. The new rule clarifies the Department’s current position and policy. This rule change does not have a fiscal effect.

## **Notice of Proposed Rule**

### ***Transportation***

**[CR 99–144]**

Notice is hereby given that pursuant to the authority of s. 341.05(25), Stats., and according to the procedure set forth in s. 227.16(2)(b), Stats., the Wisconsin Department of Transportation will adopt the following rule creating ch. Trans 316 without public hearing unless within 30 days after publication of this notice, on **November 1, 1999**, the Department of Transportation is petitioned for a public hearing by 25 persons who will be affected by the rule; by a municipality which will be affected by the rule; or by an association which is representative of a farm, labor, business, or professional group which will be affected by the rule.

Questions about this rule may be addressed to Loralee Brumund, Division of State Patrol, Room 551, P. O. Box 7912, Madison, Wisconsin 53707–7912, telephone (608) 267–3622.

## ***Analysis Prepared by the Wisconsin Department of Transportation***

STATUTORY AUTHORITY: s. 341.05(25), Stats., as created by 1997 Wis. Act 269

STATUTES INTERPRETED: s. 341.05(25)

General Summary of Proposed Rule. This proposed rule making creates ch. Trans 316 which permits wood harvesting slashers to be included in the list of vehicles exempt from registration, and permit uniform enforcement of its exemption from vehicle registration requirements by both law enforcement and operators. The proposed rule also defines “wood harvesting slasher” pursuant to s. 341.05(25), Stats., as created by 1997 Wis. Act 269.

## ***Fiscal Estimate***

The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, technical college district or sewerage district. The Department estimates that there will be no fiscal impact on state revenues or liabilities.

## ***Initial Regulatory Flexibility Analysis***

This proposed rule will have no adverse impact on small businesses.

## ***Copies of Rules***

Copies of this proposed rule may be obtained upon request, without cost, by writing to Loralee Brumund, Department of Transportation, Division of State Patrol, Room 551, P. O. Box 7912, Madison, WI 53707–7912, or by calling (608) 267–3622. Alternate formats of the proposed rule will be provided to individuals at their request.

## ***Text of Proposed Rule***

SECTION 1. Chapter Trans 316 is created to read:

### **CHAPTER Trans 316 WOOD HARVESTING SLASHERS**

**Trans 316.01** Purpose and scope. The purpose of this chapter is to define wood harvesting slasher pursuant to s. 341.05(25), Stats., and to permit its limit operation on Wisconsin roads.

**Trans 316.02 Definitions.** In this chapter:

- (1) “Self-propelled” means a slasher that is independently powered for cutting functions, but which requires a separate vehicle for transport purposes.
- (2) “Tree loader” means a mechanism, constructed as part of the slasher unit, that is used to load trees onto the slasher saw table for cutting.
- (3) “Truck-mounted” means a slasher that is permanently secured to a truck for use during cutting functions and for transport purposes.
- (4) “Wood harvesting slasher” means a unit with a mounted tree loader constructed specifically to cut trees to specific lengths and principally used off the highway. These units include either of the following:
  - (a) A self-propelled unit mounted on or towed by an articulated semi-trailer or trailer that shall be considered as a single unit.
  - (b) A truck-mounted motorized unit that shall be considered as a single unit.

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***NOTICE OF SUBMISSION OF PROPOSED RULES TO THE PRESIDING OFFICER OF EACH HOUSE OF THE LEGISLATURE,  
UNDER S. 227.19, STATS.***

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*Please check the Bulletin of Proceedings for further information on a particular rule.*

**Agriculture, Trade and Consumer Protection ([CR 99-87](#)):**

Ch. ATCP 34 – Relating to the Chemical and Container Collection Program.

**Chiropractic Examining Board ([CR 99-40](#)):**

S. Chir 3.08 – Relating to use of limited liability entities in chiropractic practice.

**Veterinary Examining Board ([CR 99-127](#)):**

SS. VE 2.01 and 3.03 – Relating to computerized examinations.

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## ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

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*The following administrative rules have been filed with the Revisor of Statutes Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication of these rules could be delayed. Contact the Revisor of Statutes Bureau at (608) 266-7275 for updated information on the effective dates for the listed rules.*

**Agriculture, Trade and Consumer Protection****(CR 99-85):**

An order affecting ch. ATCP 15, relating to humane officer training and certification.

Effective 12-01-99.

**Employment Relations Commission (CR 95-179):**

An order affecting ss. ERC 1.06, 2.02 and 12.02 and chs. ERC 10 and 20, relating to fees for complaints, grievance arbitration, mediation, fact-finding, interest arbitration and transcripts.

Effective 12-01-99.

**Hearings and Appeals, Division of (CR 98-119):**

An order creating ch. HA 3, relating to appeal procedure for Medicaid, food stamp, public assistance and social service programs.

Effective 12-01-99.

**Natural Resources (CR 99-21):**

An order affecting ch. NR 409 and ss. NR 400.02, 439.098, 484.10 and 484.11, relating to incorporating federal nitrogen oxides (NO<sub>x</sub>) emission requirements into the Department's air pollution control rules.

Effective 12-01-99.

**Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board (CR 99-39):**

An order affecting ch. SFC 3 and ss. SFC 11.03, 14.01, 14.02, 16.01, 16.02, 18.01 and 18.02, relating to repeal of outdated provisions, and academic equivalency requirements for certification as a professional counselor.

Effective 12-01-99.

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## RULES PUBLISHED IN THIS WIS. ADM. REGISTER

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*The following administrative rule orders have been adopted and published in the **October 31, 1999 Wisconsin Administrative Register**. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code, and also to the subscribers of the specific affected Code.*

*For subscription information, contact Document Sales at (608) 266-3358.*

**Commerce (CR 99-29):**

An order affecting ch. Comm 7, relating to explosive materials.

Effective 11-01-99.

**Commerce (CR 99-48):**

An order affecting ch. Comm 14, relating to fire department dues entitlement.

Effective 11-01-99.

**Commerce (CR 99-65):**

An order affecting chs. Comm 11, 12, 13, 40 and 43, relating to gas systems and anhydrous ammonia.

Effective 11-01-99.

**Commerce (CR 99-75):**

An order affecting ch. Comm 112, relating to the Wisconsin Development Zone program.

Effective 11-01-99.

**Dentistry Examining Board (CR 99-16):**

An order creating ch. DE 7, relating to the education required of licensed dental hygienists to receive a certificate to administer local anesthesia to patients.

Effective 11-01-99.

**Natural Resources (CR 98-181):**

An order affecting the chs. NR 400-- series, relating to updating and cleanup changes to the chs. NR 400-- series.

Part effective 11-01-99.

**Natural Resources (CR 99-84):**

An order affecting ss. NR 46.15 and 46.30, relating to the administration of the Forest Crop Law and the Managed Forest Law.

Effective 11-01-99.

**Public Service Commission (CR 99-3):**

An order repealing and recreating ch. PSC 135, relating to gas safety.

Effective 11-01-99.

**Revenue (CR 97-128):**

An order affecting ss. Tax 11.03 and 11.11, relating to schools and related organizations, and industrial and governmental waste treatment facilities.

Effective 11-01-99.

**Revenue (CR 99-54):**

An order affecting ss. Tax 11.05, 11.87 and 11.94, relating to governmental units; meals, food, food products and beverages; and Wisconsin sales and taxable transportation charges.

Effective 11-01-99.

**Revenue (CR 99-76):**

An order affecting s. Tax 11.51, relating to taxable and exempt sales by grocers.

Effective 11-01-99.

**Transportation (CR 99-63):**

An order affecting ch. Trans 2, relating to the elderly and disabled transportation capital assistance program.

Effective 11-01-99.

**Workforce Development (CR 98-202):**

An order affecting s. DWD 11.055 and ch. DWD 16, relating to the emergency assistance program.

Effective 11-01-99.

**Workforce Development (CR 98-203):**

An order affecting chs. HSS 217 and DWD 17, relating to the training of income maintenance workers.

Effective 11-01-99.



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## SECTIONS AFFECTED BY RULE REVISIONS AND CORRECTIONS

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The following administrative rule revisions and corrections have taken place in October, 1999, and will be effective as indicated in the history note for each particular section. For additional information, contact the Revisor of Statutes Bureau at (608) 266-7275.

### REVISIONS

#### Commerce:

##### *(Explosive Materials, Ch. Comm 7)*

##### **Ch. Comm 7**

- S. Comm 7.01 (entire section)
- S. Comm 7.04 (2), (2g), (2k), (2p), (3m), (6), (9), (10m) (intro.), (11m), (12), (14), (14m), (16), (19m), (26), (26h), (27) and (29)
- S. Comm 7.09 (entire section)
- S. Comm 7.20 (1) and (2)
- S. Comm 7.218 (1) (a)
- S. Comm 7.24 (entire section) was renumbered from s. Comm 7.58 and (2) was amended
- S. Comm 7.25 (entire section)
- S. Comm 7.30 (1) (c), (2) (e), (3), (6) (b) and (8)
- S. Comm 7.31 (2) and (3)
- S. Comm 7.32 (entire section)
- S. Comm 7.33 (1), (2) (c), (3) (a), (c), (g), (5), Tables 7.33-1, 7.33-2, 7.33-3, 7.33-4 and 7.33-7
- S. Comm 7.34 (1), (2) (d) and (3) (a)
- S. Comm 7.35 (1) and (3)
- S. Comm 7.36 (1), (2) (b), (c) and (d)
- S. Comm 7.37 (3)
- S. Comm 7.41 (2) and (5)
- S. Comm 7.42 (3)
- S. Comm 7.43 (entire section)
- S. Comm 7.44 (4)
- S. Comm 7.45 (entire section)
- S. Comm 7.55 (entire section)
- S. Comm 7.56 (entire section)
- S. Comm 7.57 (entire section)
- S. Comm 7.58 (entire section)
- S. Comm 7.61 (entire section)
- S. Comm 7.64 (2), (3), (4) and (5)

##### *(Liquefied Petroleum Gases, Ch. Comm 11)*

##### **Ch. Comm 11 (entire chapter)**

##### *(Liquefied Natural Gas, Ch. Comm 12)*

##### **Ch. Comm 12 (entire chapter)**

##### *(Compressed Natural Gas, Ch. Comm 13)*

##### **Ch. Comm 13 (entire chapter)**

##### *(Fire Prevention, Ch. Comm 14)*

##### **Ch. Comm 14**

- S. Comm 14.01 (11m) and (13m)
- S. Comm 14.02 (2) (d) and (e) and (3)
- S. Comm 14.025 (entire section)

##### *(Gas Systems, Ch. Comm 40)*

##### **Ch. Comm 40 (entire chapter)**

##### *(Anhydrous Ammonia, Ch. Comm 43)*

##### **Ch. Comm 43**

- S. Comm 43.12 (entire section)
- S. Comm 43.26 (8)

##### *(Financial Resources for Businesses and Communities, Chs. Comm 105 to 128)*

##### **Ch. Comm 112**

- S. Comm 112.02 (2m), (3m), (4m), (5) (a), (6), (9) and (10)
- S. Comm 112.03 (1) (intro.), (d), (3), (4) and (5)
- S. Comm 112.04 (2) (a) and (c)
- S. Comm 112.045 (entire section)
- S. Comm 112.05 (entire section)
- S. Comm 112.06 (2) (a), (c), (d), (e) and (4)
- S. Comm 112.08 (1) (a), (b) (intro.), (c) and (2)

#### Dentistry Examining Board

##### **Ch. DE 7 (entire chapter)**

#### Health and Family Services

##### *(Economic Support, Chs. HFS/HSS 200--)*

##### **Ch. HSS 217 (entire chapter) was replaced by ch. DWD 17**

#### Natural Resources:

##### *(Fish, Game, etc., Chs. NR 1--)*

##### **Ch. NR 46**

- S. NR 46.30 (2) (a) to (d)

##### *(Environmental Protection--Air Pollution Control, Chs. NR 400--)*

##### **Ch. NR 400**

- S. NR 400.02 (entire section)
- S. NR 400.03 (2) (ns) and (rg) and (4) (dg) and (ks)

##### **Ch. NR 401**

- S. NR 401.025 (3)
- S. NR 401.05 (entire section)



**Ch. NR 404**

S. NR 404.02 (intro.)

**Ch. NR 405**

S. NR 405.02 (21) (b) and (22) (c)

S. NR 405.07 (8) (a)

**Ch. NR 406**

S. NR 406.04 (intro.), (1) (intro.), (a), (g), (h), (i) and (j), (2) (e), (h) and (i) and (4) (intro.) and (h)

**Ch. NR 407**

S. NR 407.02 (4) (a)

S. NR 407.03 (1) (g), (h) and (o) and (2) (intro.), (e) and (g)

S. NR 407.04 (intro.) and (1) (intro.) and (b)

S. NR 407.05 (4) (c) and Table 2

S. NR 407.10 (6) (intro.) and (a)

**Ch. NR 408**

S. NR 408.06 (2) (intro.), (a) and (8)

**Ch. NR 415**

S. NR 415.02 (intro.) and (9)

S. NR 415.04 (4) (a) and (b)

S. NR 415.06 (1) (c) and (4)

**Ch. NR 417**

S. NR 417.01 (2)

S. NR 417.07 (5) (g)

**Ch. NR 418**

S. NR 418.01 (2)

**Ch. NR 419**

S. NR 419.02 (14) (intro.)

S. NR 419.06 (3)

S. NR 419.08 (1) (c), (2) (intro.), (b), (c), (3), (5), (6) (intro.) and (7)

**Ch. NR 420**

S. NR 420.02 (intro.), (31) and (41)

S. NR 420.03 (1) (a), (5) (b), (c) and (d) and (6) (b)

S. NR 420.04 (2) (a) and (3) (g)

**Ch. NR 421**

S. NR 421.04 (3) (a)

S. NR 421.05 (2) (e)

S. NR 421.06 (2) (e)

**Ch. NR 422**

S. NR 422.02 (42)

S. NR 422.03 (7)

S. NR 422.04 (4)

S. NR 422.125 (4) (intro.)

S. NR 422.14 (2) (intro.), (a) and (b)

S. NR 422.142 (5) (d)

S. NR 422.15 (1) (j)

**Ch. NR 423**

S. NR 423.03 (2) (g), (4) (c), (d), (h), (k), (5) (c) and (7) (c)

**Ch. NR 424**

S. NR 424.02 (intro.)

S. NR 424.03 (3) (intro.)

**Ch. NR 425**

S. NR 425.02 (intro.) and (2)

S. NR 425.03 (9) (a), (10) (a) and (d) and (12) (a)

S. NR 425.04 (1) (b)

**Ch. NR 429**

S. NR 429.04 (1) (f)

**Ch. NR 436**

S. NR 436.03 (1)

S. NR 436.06 (3) (b)

**Ch. NR 438**

S. NR 438.02 (2)

S. NR 438.03 Table 1 and (5) (a)

**Public Service Commission:****Ch. PSC 135 (entire chapter)****Revenue:****Ch. Tax 11**

S. Tax 11.03 (1) (a) and (b), (3) (c), (4) (a), (c) and (d)

S. Tax 11.05 (2) (a), (d), (f) and (i), (3) (d), (L) and (m) to (x) and (4) (a) and (b)

S. Tax 11.11 (2) (b) and (c), (3), (4) and (5)

S. Tax 11.51 (1), (2) (a), (b) and (c), (3) and (4)

S. Tax 11.87 (1) (b), (e) and (f), (2) (c) and (3) (a) and (c)

S. Tax 11.94 (1) (d), (2) (a), (c) and (d)

**Transportation:****Ch. Trans 2**

S. Trans 2.01 (entire section)

S. Trans 2.015 (1m), (3) and (4)

S. Trans 2.02 (entire section)

S. Trans 2.04 (3)

S. Trans 2.045 (entire section)

S. Trans 2.05 (1) (a) to (i) and (3)

S. Trans 2.055 (entire section)

S. Trans 2.06 (2) (c) and (d)

S. Trans 2.07 (entire section)

S. Trans 2.08 (entire section)

S. Trans 2.09 (entire section)

S. Trans 2.10 (1) (a) and (b) and (2) (a) and (b)

S. Trans 2.11 (entire section)

**Workforce Development:****Ch. DWD 16 (entire chapter)****Ch. DWD 17 (entire chapter)**

## EDITORIAL CORRECTIONS

Corrections to code sections under the authority of s. 13.93 (2m) (b), Stats., are indicated in the following listing:

### Commerce:

#### *(Fire Prevention, Ch. Comm 14)*

##### **Ch. Comm 14**

- S. Comm 14.21 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. Comm 14.57 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

#### *(Anhydrous Ammonia, Ch. Comm 43)*

##### **Ch. Comm 43**

- S. Comm 43.16 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. Comm 43.17 (1) and (3) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. Comm 43.40 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

#### *(Uniform Multifamily Dwellings, Ch. Comm 66)*

##### **Ch. Comm 66**

- S. Comm 66.05 (3) had a correction made under s. 13.93 (2m) (b) 7., Stats.

### Ethics Board

##### **Ch. Eth 2**

- S. Eth 2.07 (entire section) had a correction made under s. 13.93 (2m) (b) 1., Stats.

### Health and Family Services

#### *(Community Services, Chs. HFS 30--)*

##### **Ch. HFS 61**

- S. HFS 61.021 (3) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 61.03 (2) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 61.43 (1) and (2) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 61.50 (2) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 61.59 (4) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 61.63 (1) (a) and (c) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 61.65 (4) (d) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 61.97 (16) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 61.98 (5) (a) had a correction made under s. 13.93 (2m) (b) 7., Stats.

##### **Ch. HFS 62**

- S. HFS 62.01 (1) and (3) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 62.02 (2) (c) and (g) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 62.03 (intro.) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 62.04 (3) (intro.) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 62.05 (5) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 62.08 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

##### **Ch. HFS 83**

- S. HFS 83.03 (1) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 83.04 (13) (d) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 83.06 (6) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 83.07 (13) (b) had a correction made under s. 13.93 (2m) (b) 6., Stats.
- S. HFS 83.19 (2) (c) had a correction made under s. 13.93 (2m) (b) 1., Stats.
- S. HFS 83.20 (2) (a) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 83.33 (3) (c) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 83.34 (2) (a) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 83.41 (5) (d) had a correction made under s. 13.93 (2m) (b) 7., Stats.

#### *(Health, Chs. HFS/HSS 110--)*

##### **Ch. HFS 111**

- S. HFS 111.01 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 111.04 (4) and (5) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 111.07 (3) to (6) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 111.08 (4) had a correction made under s. 13.93 (2m) (b) 7., Stats.

##### **Ch. HFS 112**

- S. HFS 112.04 (4) and (5) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 112.05 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. HFS 112.07 (1) to (6) had corrections made under s. 13.93 (2m) (b) 7., Stats.

**Ch. HFS 135 (entire chapter) was renumbered from ch. HSS 135 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 6. and 7., Stats.**

## **Natural Resources:**

*(Fish, Game, etc., Chs. NR 1--)*

### **Ch. NR 2**

- S. NR 2.05 (1) and (4) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 2.065 (entire section) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 2.13 (3) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 2.135 (3) had a correction made under s. 13.93 (2m) (b) 1., Stats.
- S. NR 2.19 (5) (b), (c) and (d) had corrections made under s. 13.93 (2m) (b) 7., Stats.

*(Environmental Protection--General, Chs. NR 100--)*

### **Ch. NR 106**

- S. NR 106.07 (7) had a correction made under s. 13.93 (2m) (b) 1., Stats.

### **Ch. NR 117**

- S. NR 117.01 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 117.03 (7) and (9) had corrections made under s. 13.93 (2m) (b) 1. and 7., Stats.
- S. NR 117.05 (4) (d) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 117.06 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

### **Ch. NR 133**

- S. NR 133.02 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 133.03 (7) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 133.05 (2) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 133.08 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 133.09 (2), (4) and (5) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 133.10 (entire section) had a correction made under s. 13.93 (2m) (b) 1., Stats.
- S. NR 133.12 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

### **Ch. NR 134**

- S. NR 134.01 (entire section) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 134.05 (entire section) had a correction made under s. 13.93 (2m) (b) 1., Stats.
- S. NR 134.07 (entire section) had a correction made under s. 13.93 (2m) (b) 1., Stats.

### **Ch. NR 165**

- S. NR 165.01 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 165.02 (entire section) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 165.03 (4) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 165.06 (intro.) and (3) (b) had corrections made under s. 13.93 (2m) (b) 1., Stats.
- S. NR 165.08 (4) and (8) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 165.09 (5) had a correction made under s. 13.93 (2m) (b) 7., Stats.

### **Ch. NR 185**

- S. NR 185.03 (8) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 185.05 (3) (a) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 185.07 (5) had a correction made under s. 13.93 (2m) (b) 1., Stats.

*(Environmental Protection--Air Pollution Control, Chs. NR 400--)*

### **Ch. NR 407**

- S. NR 407.025 (1) (d) and (2) (c) had corrections made under s. 13.93 (2m) (b) 7., Stats.

### **Ch. NR 420**

- S. NR 420.03 (2) (a) and (8) had corrections made under s. 13.93 (2m) (b) 7., Stats.

*(Environmental Protection--Investigation and Remediation, Chs. NR 700--)*

### **Ch. NR 724**

- S. NR 724.13 (4) had a correction made under s. 13.93 (2m) (b) 1., Stats.

## **Waste Facility Siting Board:**

### **Ch. WFSB 1**

- S. WFSB 1.01 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. WFSB 1.02 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. WFSB 1.04 (1) and (2) (d) had corrections made under s. 13.93 (2m) (b) 7., Stats.

### **Ch. WFSB 2**

- S. WFSB 2.03 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. WFSB 2.04 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. WFSB 2.06 (1) and (3) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. WFSB 2.13 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. WFSB 3**

S. WFSB 3.01 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. WFSB 3.02 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. WFSB 4**

S. WFSB 4.04 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. WFSB 4.05 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. WFSB 7**

S. WFSB 7.01 (2) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. WFSB 9**

S. WFSB 9.01 (2) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. WFSB 10**

S. WFSB 10.01 (2) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. WFSB 11**

S. WFSB 11.01 (2) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. WFSB 12**

S. WFSB 12.01 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

## ERRATA

Items reprinted to correct printing errors such as dropped copy (or other errors) are indicated in the following listing:

**Commerce**

*(Uniform Multifamily Dwellings, Ch. Comm 66)*

**Ch. Comm 66**

S. Comm 66.32 (4) (c) reprinted to correct printing error.

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## *FINAL REGULATORY FLEXIBILITY ANALYSES*

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### 1. Commerce (CR 99-29)

Ch. Comm 7 – Explosive materials.

Summary of Final Regulatory Flexibility Analysis:

Section 101.15 (2)(e), Stats., directs the Department to adopt and enforce rules to effect the safety of mines, explosives, quarries and related activities, including the regulation of blasting resultants. The proposed revisions in the explosive materials rules are minimum requirements to meet the directives of the Statutes, and any less stringent requirements would be contrary to the Statutory objectives which are the basis for the rules.

Summary of Comments of Legislative Standing Committees:

The rules were reviewed by the Assembly Committee on Labor and Employment and the Senate Committee on Economic Development, Housing and Government Operations. No comments were received.

### 2. Commerce (CR 99-48)

Ch. Comm 14 – Fire department dues entitlement.

Summary of Final Regulatory Flexibility Analysis:

Sections 101.14, 101.573 and 101.575, Stats., authorize the Department to promulgate rules relating to fire prevention inspections in public buildings and places of employment and to administer the fire fund dues program. The proposed rules of Clearinghouse Rule No. 99-48 are minimum requirements to meet the directives of the Statutes, and any exceptions from compliance for small businesses would be contrary to the Statutory objectives which are the basis for the rules.

Summary of Comments of Legislative Standing Committees:

The rules were reviewed by the Assembly Committee on Labor and Employment and the Senate Committee on Economic Development, Housing and Government Operations. No comments were received.

### 3. Commerce (CR 99-65)

Chs. Comm 11, 12, 13 & 43 – Gas systems and anhydrous ammonia.

Summary of Final Regulatory Flexibility Analysis:

Sections 101.02 (15)(h) to (j) and 101.16, Stats., authorize the Department to promulgate rules prescribing minimum installation and operation standards for gas systems and anhydrous ammonia facilities in public buildings and places of employment. The proposed rules of Clearinghouse Rule No. 99-65 are minimum requirements to meet the directives of the Statutes, and any exceptions from compliance for small businesses would be contrary to the Statutory objectives which are the basis for the rules.

Summary of Comments of Legislative Standing Committees:

The rules were reviewed by the Assembly Committee on Labor and the Senate Committee on Economic Development, Housing and Government Operations. No comments were received.

### 4. Commerce (CR 99-75)

Ch. Comm 112 – Wisconsin Development Zone.

Summary of Final Regulatory Flexibility Analysis:

No issues or recommendations concerning these rules were raised by small business at public hearings or during the open comment period.

Summary of Comments of Legislative Standing Committees:

The rules were reviewed by the Assembly Committee on Small Business and Economic Development and the Senate Committee on Economic Development, Housing and Government Operations. No comments were received.

### 5. Dentistry Examining Board (CR 99-16)

Ch. DE 7 – The education required of licensed dental hygienists to receive a certificate to administer local anesthesia to patients.

Summary of Final Regulatory Flexibility Analysis:

These proposed rules will have no significant economic impact on small businesses as defined in s. 227.114 (1)(a), Stats.

Summary of Comments:

No comments were reported.

### 6. Natural Resources (CR 99-84)

Ch. NR 46 – Administration of the Forest Crop Law and the Managed Forest Law.

Summary of Final Regulatory Flexibility Analysis:

This rule does affect small businesses. Small private forest landowners and forest industries enrolled under the Forest Crop Law and the Managed Forest Law are required to pay 10% and 5% respectively of the stumpage value adopted in the zone for the species and wood product volume cut from their land. Existing compliance and reporting procedures are defined by statute.

Summary of Comments by Legislative Review Committees:

The rule was reviewed by the Assembly Committee on Rural Affairs and Forestry and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform. There were no comments.

**7. Natural Resources (CR 98–181)**

NR 400 series – Updating and cleanup changes to the NR 400 series.

Summary of Final Regulatory Flexibility Analysis:

The owners and operators of some facilities that are regulated under this rule may see a change the reporting and recordkeeping as 20 compounds are now excluded from the definition of VOC, but other facilities may have a need to start reporting. No part of the rule package is expected to have a significant economic impact on a substantial number of small businesses.

Summary of Comments by Legislative Review Committees:

The rules were reviewed by the Assembly Environment Committee and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform. Though the Assembly Environment Committee did extend their review period, no comments or recommendations were received.

**8. Public Service Commission (CR 99–3)**

Ch. PSC 135 – Gas safety.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules do not affect small businesses as defined in s. 227.114, Stats. the rules incorporate into the Wisconsin Administrative Code federal pipeline safety regulations that are already applicable to all pipeline operators in this state regardless of size.

Summary of Comments:

No comments were reported.

**9. Revenue (CR 97–128)**

Ch. Tax 11 – Schools and related organizations and to industrial and governmental waste treatment facilities.

Summary of Final Regulatory Flexibility Analysis:

This proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments:

No comments were reported.

**10. Revenue (CR 99–54)**

Ch. Tax 11 – Governmental units; meals, food, food products and beverages; and Wisconsin sales and taxable transportation charges.

Summary of Final Regulatory Flexibility Analysis:

This proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments:

No comments were reported.

**11. Revenue (CR 99–76)**

S. Tax 11.51 – Taxable and exempt sales by grocers.

Summary of Final Regulatory Flexibility Analysis:

This proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments:

No comments were reported.

**12. Transportation (CR 99–63)**

Ch. Trans 2 – Elderly and disabled transportation capital assistance program.

Summary of Final Regulatory Flexibility Analysis:

This proposed rule has no significant impact on small businesses.

Summary of Comments:

No comments were reported.

**13. Workforce Development (CR 98–202)**

Ch. DWD 16 – Emergency Assistance Program.

Summary of Final Regulatory Flexibility Analysis:

Privately-run W-2 agencies will be affected by the rule change, but the rule will not have a significant economic impact because there is no material change from current procedures.

Summary of Comments of Legislative Standing Committees:

The rule was assigned to the Assembly Committee on Children and Families and the Senate Committee on Human Services and Aging, and the department received no comments from either committee.

**14. Workforce Development (CR 98–203)**

Ch. DWD 17 – Training of income maintenance workers.

Summary of Final Regulatory Flexibility Analysis:

Privately-run W-2 agencies will be affected by the rule change, but the rule will not have a significant economic impact on a substantial number of small businesses.

Summary of Comments of Legislative Standing Committees:

The rule was assigned to the Assembly Committee on Children and Families and the Senate Committee on Human Services and Aging, and the department received no comments from either committee.

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## *EXECUTIVE ORDERS*

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*The following is a listing of recent Executive Orders issued by the Governor.*

**Executive Order 380.** Relating to the Creation of the Menomonee River Council.

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